

THE EUROPEAN UNION'S RIGHTS-BASED  
APPROACH: HELPING PACIFIC  
COMMUNITIES TO OVERCOME GENDER-  
BASED VIOLENCE?

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# Table of Contents

<b>Acknowledgements.....</b>	<b>i</b>
<b>Abstract.....</b>	<b>ii</b>
<b>Acronyms .....</b>	<b>iv</b>
<b>1. Introduction.....</b>	<b>1</b>
Gender Equality in Development .....	1
Overview: Violence against women in the Pacific region.....	3
The Importance of Culture.....	10
Interculturalism and Intercultural Dialogue.....	11
The Capability Approach: Helping to Understand Gender-Based Violence .....	15
Research questions .....	18
Methodology .....	18
Hypothesis .....	19
Limitations.....	20
Outline of Study .....	23
<b>2. The European Union's Attempt to Improve Development.....</b>	<b>25</b>
What is a Human Rights-Based Approach to Development? .....	25
EU-Pacific Relations.....	29
European Union Rights-Based Approach to Development and Aid Effectiveness Agenda .....	34
European Union's Commitment to Gender Equality .....	38
Gender Mainstreaming .....	41
EU's Gender Action Plan (GAP).....	44
2016-2020.....	46
<b>3. Culture and Women's Rights in Melanesia .....</b>	<b>48</b>
CEDAW .....	48
What CEDAW means for Melanesia .....	50
What is Culture? .....	53
Universal Rights or Relative?.....	55
Human Rights and the Pacific.....	58
Custom, Religion and Postcolonialism.....	60
What is Custom? .....	62
The Ongoing Impacts of Colonisation .....	64
Religion.....	65
Women's Rights in Patriarchal Societies .....	67
The Importance of Interculturalism and Developing an Intercultural Awareness in Development.....	69
Human Rights in Intercultural Dialogue .....	71
Interculturalism within the EU .....	73
Benefits of Interculturalism in Achieving Sustainable Development.....	75
<b>4. Capabilities, Civil Society, Capacity and the GBV Question? .....</b>	<b>76</b>
The Importance of Civil Society in Melanesia.....	76
The Capability Approach as a Measurement of Development .....	79

Capabilities and Nussbaum – Constructing a Theory of Social Justice .....	82
Gender and Capabilities .....	84
Capabilities in Understanding Gender Inequality.....	85
Capabilities and United Nations Human Development Reports .....	87
Capabilities and Freedom.....	88
Agency and Participation in Development .....	89
Human Rights and Capabilities.....	90
Adapting the Capabilities Approach to Include an Intercultural Perspective ..	92
<b>5. Measuring the Impact of Policy on Human Rights .....</b>	<b>94</b>
Impact Assessments .....	94
Measuring Human Rights .....	98
Human Rights Impact Assessment.....	100
Scoping and Screening Processes in Impact Assessment Methodology .....	102
Indicators.....	102
Human Rights Indicators.....	103
HeRWAI.....	105
Capacity Impact Assessment “a type of Impact Assessment” .....	107
Interviews with Relevant Civil Society and Donor Agencies .....	109
<b>6. Policy to Action? – Analysis of Capacity Impact Assessment.....</b>	<b>112</b>
The Women’s Rights Situation (desk-based analysis).....	112
Capacity of Civil Society to Implement Programmes Targeting Awareness of Issues around GBV.....	118
What is Actually Happening on the Ground: EU-Funded Projects.....	128
Realities of Culture and Religion in Melanesian Society and the Potential for Intercultural Dialogue.....	129
Donor Relations .....	135
<b>7. Conclusion .....</b>	<b>144</b>
<b>References .....</b>	<b>150</b>
<b>Appendix One – Capacity Impact Assessment.....</b>	<b>166</b>
<b>Appendix Two – Interview Questionnaire .....</b>	<b>167</b>
<b>Appendix Three – Mapping of National Policy and Legislation .....</b>	<b>168</b>
<b>Appendix Four – Analysis of Capacity, Civil Society and GBV in EU Policy Documents .....</b>	<b>169</b>
<b>Appendix Five – EU-Funded Gender Projects.....</b>	<b>170</b>
<b>Appendix Six – List of Interview Participants .....</b>	<b>171</b>

## List of Figures

Figure 1 Timeline of global gender commitments and EU gender policies.....	41
Figure 2 Conceptual Framework applying an interculturalist view to the capabilities approach.....	93
Figure 3 The Pacific RIP Indicative Allocation (EUR 166m) for Pacific ACP States Priority Areas 2014-2020 .....	136
Figure 4 Breakdown of the Specific Objectives (EUR million) under Priority Area 3 (Inclusive and Accountable Governance and the respect of Human Rights) in Pacific RIP 2014-2020 .....	137
Figure 5 EU 11th EDF Indicative National Allocation for Melanesia (EUR Million) 2014-2020 .....	137
Figure 6 EU-Fiji Indicative National Allocation Support per Sector (EUR Million) 2014-2020 .....	138
Figure 7 EU-PNG Indicative National Allocation Support per Sector (EUR Million) 2014-2020 .....	138
Figure 8 EU-Solomon Islands Indicative National Allocation Support per Sector (EUR Million) 2014-2020 .....	139
Figure 9 EU-Vanuatu Indicative National Allocation Support per Sector (EUR Million) 2014-2020 .....	139

## List of Tables

Table 1 Prevalence of Violence Against Women and Girls in Melanesia and Wider Pacific Region .....	5
Table 2 Ratifications of Human Rights Treaties by Melanesia.....	51

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## **Abstract**

Gender equality is a fundamental human right and consequently the foundation to achieving sustainable development. As human beings, women and girls, men and boys, are all entitled to living a life of dignity, free of want or fear.

Unfortunately, many societies around the world continue to be organised in ways that discriminate individuals on the basis of their gender. Gender-based violence is a perverse manifestation of gender inequality that directly affects many women and girls in societies around the world and is a detrimental factor to achieving sustainable development.

The European Union (EU) is a leading advocate for human rights and gender equality on the global stage. In an effort to strengthen and integrate human rights into development, the EU followed other development actors in underlining its commitment to applying a rights-based approach (RBA) to all development cooperation. Meaning that human rights are both incorporated as a means and as a goal of development policies and projects.

As a donor in the Pacific, the EU has identified gender equality and the particular issue of gender-based violence as focal areas. This study focuses on the impact of the EU's RBA on the capacity of civil society to promote gender equality and counter gender-based violence in Melanesian societies. Dominant patriarchal societies tend to tolerate gender-based violence, creating a challenging environment to promote gender equality and women empowerment.

Furthermore in these particular societies, human rights and culture are perceived as conflicting concepts. Local civil society is therefore a vital partner for the EU in order to reach local communities and influence policy outcomes.

This study undertakes a type of impact assessment in order to identify how an EU RBA is filtering down to the community-level in Melanesia. Semi-structured interviews with leaders of local civil society and policy-makers in Suva, Fiji provided the study with an insight into what the EU is actually doing on the ground. A desk-based analysis of EU policy documents including regional and national indicative programmes for Melanesia were mapped and cross-

referenced with interview data to identify potential gaps between policy rhetoric and action at a community and civil society levels.

As an enabler of development, the EU and their newfound approach, have the potential to strengthen civil society capacity to overcome barriers in advocacy for women's rights. However despite positive intentions in policy, impact on the ground is very much determined by community engagement and is potentially personality-driven. This study investigates the role of the EU both in rhetoric and action in an effort to draw attention to the possible gaps between theory and practise in EU development in the Pacific.

## Acronyms

ACP	Africa, Caribbean and Pacific Group of States
CEDAW	Convention on the Elimination of all Forms of Discrimination Against Women
CIA	Capacity Impact Assessment
CSO	Civil Society Organisation
EDF	European Development Fund
EEAS	European External Action Service
EIA	Environmental Impact Assessment
EPA	Economic Partnership Agreement
EU	European Union
GAD	Gender and Development Approach
GAP	Gender Action Plan
GBV	Gender-Based Violence
HDI	Human Development Index
HeRWAI	Health Rights for Women Assessment Instrument
HRBA	Human Rights-Based Approach
HRIA	Human Rights Impact Assessment
IA	Impact Assessment
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
MDG	Millennium Development Goals
NGO	Non-Governmental Organisation
NIP	National Indicative Programme
OCT	Overseas Countries and Territories
ODA	Official Development Assistance
OECD	The Organisation for Economic Co-operation and Development
PICT	Pacific Island Countries and Territories
PIFS	Pacific Island Forum Secretariat
PNG	Papua New Guinea
PP	Public Participation
RBA	Rights-Based Approach
RBM	Results-Based Management
RIP	Regional Indicative Programme
SDG	Sustainable Development Goals
SIA	Social Impact Assessment
SPC	Secretariat of the Pacific Community
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNDP	United Nations Development Programme
UNFPA	The United Nations Population Fund
VAW	Violence Against Women
WDR	World Development Report
WID	Women in Development Approach



# **1. Introduction**

## **Gender Equality in Development**

Gender-based violence is a global issue. While gender equality is high on the political agenda in both developed and developing countries alike, violence against women remains a persistent and constant challenge. Many women worldwide experience domestic violence, sexual violence or are experiencing a type of gender inequality in the workplace. It is now widely recognised by global, regional and national organisations such as the United Nations (UN), the Organisation for Economic Co-operation and Development (OECD), the European Union (EU), Pacific Island Forum Secretariat (PIFS) and the Secretariat of the Pacific Community (SPC) that this specific form of discrimination against women is a risk to human security and thereby a destabilising factor in achieving sustainable economic and social development.<sup>1</sup> Gender equality is a significant factor for development. This recognition and commitment to eliminating gender inequality is enshrined in numerous corresponding international, regional and national treaties, declarations and conventions. The leading and most well known is the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW), of which has been signed and ratified by almost all of the countries of the United Nations, legislates to provide protection and uphold the rights of women and girls.

It could be argued that violence against women is the largest single violation of human rights in the world and ironically the least prosecuted and punished. Over the past thirty years numerous women's movements have elevated gender violence into the global sphere. Together with the inception of the United Nation's Millennium Development Goals in 2000, and the inclusion of Goal Three

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<sup>1</sup> See "Pacific Leaders Gender Equality Declaration," (Rarotonga, Cook Islands: Pacific Islands Forum Secretariat, 2012); European Commission, "Joint Staff Working Document Gender Equality and Womens Empowerment: Transforming the lives of women through EU external relations 2016-2020," (2016).

to “promote gender equality and empower women”<sup>2</sup>, there has been an increased awareness surrounding violence against women. This has been recently transferred to Goal five of the 2030 Agenda for Sustainable Development.<sup>3</sup> While it is not a new problem, it has slowly become more visible as a social issue within all societies affecting women of all ages as well as women from all socioeconomic backgrounds.<sup>4</sup> Monasky highlights the absence of women’s agency over their own lives as a significant underlying factor of gender-based violence as well as women’s unequal status to men in some societies.<sup>5</sup> Violence against women has now become a global feminist issue and is interpreted worldwide as a violation of women’s human rights. Both the terms “violence against women” and “gender-based violence” are used by the international community. Gender-based violence is broader in scope as it includes violence against men (because they are men) and violence against transgenders.<sup>6</sup> However, information about the prevalence of gender-based violence against men and boys is insufficient.

This research will focus on gender-based violence against Melanesian women and girls specifically because of the disproportionate number of women and girls who experience violence as a result of living in predominantly patriarchal societies from this region as compared to the rest of the Pacific. Sally Engle Merry defines gender violence as “violence whose meaning depends on the gendered identities of the parties. It is an interpretation of violence through gender.”<sup>7</sup> It is a common misconception that gender inequality and the particular issue of gender-based violence is consigned to developing countries alone.

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<sup>2</sup> “Millennium Development Goals,” United Nations Development Programme, accessed 7 February, 2017 [http://www.undp.org/content/undp/en/home/sdgoverview/mdg\\_goals.html](http://www.undp.org/content/undp/en/home/sdgoverview/mdg_goals.html)

<sup>3</sup> “Sustainable Development Goals,” United Nations Sustainable Development Knowledge Platform, accessed 7 February, 2017 <https://sustainabledevelopment.un.org/sdgs>

<sup>4</sup> Margaret Jolly, “Introduction-Engendering Violence in Papua New Guinea: Persons, Power and Perilous Transformations,” in *Engendering Violence in Papua New Guinea*, ed. Christine Stewart and Carolyn Brewer Margaret Jolly (Canberra, Australia: ANU E Press, 2012). 38.

<sup>5</sup> Heather Monasky, “What’s law got to do with it? An overview of CEDAW’s treatment of violence against women and girls through case studies,” *Michigan State Law Review* 2014, no. 2 (2014). 329.

<sup>6</sup> Margreet de Boer, “Mapping Violence Against Women, a tool to map the prevalence of violence against women and the interventions addressing it,” (Rights 4 Change, 2011). 8.

<sup>7</sup> Sally Engle Merry, *Gender Violence: A cultural perspective*, Introductions to Engaged Anthropology Series1 (Chichester, UK: Wiley-Blackwell, 2009). 3.

Whilst the reality is many women and girls, irrespective of their backgrounds, continue to be taken advantage of throughout the world.

## **Overview: Violence against women in the Pacific region**

In the Pacific Island region, women continue to face discrimination and inequalities based on their gender. Before continuing, it is important to understand the concept of 'gender' as it is understood both in an international context and in the Pacific region. According to the World Development Report (WDR) 2012, gender is the "social, behavioural, and cultural attributes, expectations, and norms associated with being a woman or a man."<sup>8</sup> The report then goes on to define gender inequality in terms of these aspects that constitute gender and how they determine the relationship and power dynamics between men and women.<sup>9</sup> The International Human Development Index ranks most Pacific Island countries low on the scale of gender equality.<sup>10</sup> One sign of the low status of women is low female representation at the political level. Women are significantly under-represented in Pacific Island governments. In July 2015, only 5.4 per cent of all government members in the Pacific were women.<sup>11</sup> Women's political representation in the Pacific is among some of the lowest in the world. With Pacific women having little influence in parliamentary decisions and a lack of women participation in the law-making process, there is a detrimental impact to the ordinary lives of women and children. Despite it being a fundamental human right to be involved in the political process, it is also widely recognised that women-decision-makers are more likely to implement policies that will benefit the lives of women and children.<sup>12</sup>

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<sup>8</sup> World Bank, "World Development Report 2012: Gender Equality and Development," (Washington, DC: The World Bank, 2012). 4.

<sup>9</sup> Ibid.

<sup>10</sup> "Gender Inequality Index," UNDP Human Development Reports 2015, accessed 10 February, 2016, <http://hdr.undp.org/en/composite/GII>

<sup>11</sup> Karen Hall, "PNG hosts Pacific delegates to discuss women's political representation," [http://www.pg.undp.org/content/papua\\_new\\_guinea/en/home/presscenter/pressreleases/2015/11/22/png-hosts-pacific-delegates-to-discuss-women-s-political-representation.html](http://www.pg.undp.org/content/papua_new_guinea/en/home/presscenter/pressreleases/2015/11/22/png-hosts-pacific-delegates-to-discuss-women-s-political-representation.html).

<sup>12</sup> Jack Corbett and Asenati Liki, "Intersecting Identities, Divergent Views: Interpreting the Experiences of Women Politicians in the Pacific Islands," *Politics & Gender* 11, no. 2 (2015).320.

Moreover law reform initiatives are needed if Pacific countries are to achieve gender equality. Legislation “serves as a vehicle for change for those who seek to promote equality”<sup>13</sup> and ultimately represents a state’s commitment to achieving equality and nondiscrimination within society and thereby “stimulates and facilitates cultural change.”<sup>14</sup> In the Australian Government’s aid gender strategy for the Pacific, women are stressed as holding the power to the improvement of welfare for a nation.<sup>15</sup> By enabling and empowering women with the capability to make decisions politically, at a community level and even within the household, will encourage a positive rippling effect in societies that will ultimately reflect gender equality and corresponding sustainable development.

Violence against women was recognised as being unacceptably high by the Leaders of the Pacific Islands Forum in 2012, where it was stated as one of the most pressing issues facing gender equality and overall sustainable development in the Pacific . Despite various development initiatives directly targeted at addressing and raising awareness of gender-based violence, more than 68 per cent of Pacific women are reported to be affected.<sup>16</sup> This research is aware that the use of such statistics has the potential risk to contribute to distortion, as a statistic can not give the “full picture of a complex phenomena.”<sup>17</sup> Therefore it is imperative, as an external study, to draw on a deeper and wider contextual analysis in order for this study to have validity. This is particularly important in the context of Melanesian society. Melanesia has one of the most pervasive manifestations of gender inequality in the Pacific region and is therefore detrimental to the region’s development efforts. This research focuses on the area of Melanesia: consisting of Fiji, Papua New Guinea, Vanuatu, New Caledonia and the Solomon Islands. While generalisations are difficult to make as a result of

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<sup>13</sup> Christine Forster and Vedna Jivan, "Challenging conventions : in pursuit of greater legislative compliance with CEDAW in the Pacific," *Melbourne Journal of International Law* 10, no. 2 (2009). 656.

<sup>14</sup> Ibid. 656.

<sup>15</sup> World Bank, "World Development Report 2012: Gender Equality and Development."6.

<sup>16</sup> UNWomen, "Ending Violence Against Women and Girls," in <http://www2.unwomen.org/~media/field%20office%20eseasia/docs/publications/2014/6/evaw%20brief%20june%202014.ashx?v=1&d=20141202T120258> (2013). Accessed 10 February, 2016 <http://www2.unwomen.org/~media/field%20office%20eseasia/docs/publications/2014/6/evaw%20brief%20june%202014.ashx?v=1&d=20141202T120258>

<sup>17</sup> Helen Watchirs, "Review of Methodologies Measuring Human Rights Implementation," *The Journal of Law, Medicine & Ethics* 30, no. 4 (2002).726.

the cultural and historical diversity in the region the five countries of Melanesia lag behind in terms of women's development targets and achieving gender equality.<sup>18</sup> This region of the Pacific was chosen for this research due to the prevailing patriarchal and customary societies that have consequently lead to constant high levels of violence against women.

Table 1 demonstrates a visualisation of the extent of violence against women in the Pacific region. However due to the limited availability of data and statistics around gender-based violence and violence against women in the region, the table should be used with caution in order to avoid inaccurate generalisations.<sup>19</sup> This table attempts to provide a glimpse of the situation on the ground in order to demonstrate the severity of the issue and justify why women's rights and gender-based violence should be high on the priorities of donor agencies in Melanesian communiites While violence against women remains a problem throughout the Pacific violence against women in Melanesia has been identified as a predominant barrier to economic growth, affecting the wellbeing of individuals as well as being an overall major obstacle in achieving sustainable development.

**Table 1 Prevalence of Violence Against Women and Girls in Melanesia and Wider Pacific Region<sup>20</sup>**

Country	Population (2013)	Prevalence rate of violence against women and girls (%)	Year of study
Cook Islands	15,200	32	2013
Kiribati	108,800	68	2008
Marshall Islands	54,200	51	2012
Samoa	187,400	46	2006
Tonga	103,300	40	2012
Tuvalu	10,900	45	2007
Fiji	859,200	64	2013
New Caledonia	259,000	19	2003
Papua New Guinea	7,398,500	65.3	2010
Solomon Islands	610,800	64	2009
Vanuatu	264,700	60	2011

<sup>18</sup> New Zealand International Aid and Development Agency, "Achieving Gender Equality and Women's Empowerment," (2007).12.

<sup>19</sup> Secretariat of the Pacific Community, "Beijing + 20: Review of progress in implementing the Beijing Platform for Action in Pacific Island countries and territories," (New Caledonia2015).

<sup>20</sup> Note: The statistics for this table were collected from Secretariat of the Pacific Community "Beijing +20: Review of Progress in Implementing the Beijing Platform of Action in Pacific Island Countries and Territories." SPC, 2015

Due to the cultural and religious stigmas surrounding violence against women and overall women's rights in patriarchal societies, it is difficult for women to acknowledge their situation as unjust and report it. Furthermore, even upon knowing their rights as a human and as a woman, there is an undeniable fear of retaliation and bringing shame on both her family and community. It is also important to be aware that in patriarchal societies such as in Melanesia, the perpetrators of violence are not only husbands, brothers and fathers but also the police and justice systems. Accessibility to justice is extremely difficult to come by complicated further for women in the outer islands or in rural areas in which there are limited resources. Together all of these elements make it very challenging to achieve and identify accurate data.

As there is an increasing awareness of the inequalities facing Pacific women in the Pacific, more information is required in order to understand the severity of the issue and highlight the need for action. Gender inequality is often described in terms of women's lack of resources or ownership of property in comparison to men's. This situation promotes a society that exploits and discredits women and girls as well as making them vulnerable to abuse and attack.<sup>21</sup> Research provides the necessary data to inform awareness campaigns, legislation, policy and practises around violence against women.<sup>22</sup> In many Pacific communities violence that happens in the home is perceived by both men and women as a private matter and therefore is to be resolved within the household and/or church and community structures.<sup>23</sup> The cultural stigma attached to women's rights and specifically towards violence against women is detrimental to development efforts in overcoming the issue. There is an overwhelming widespread belief held by both men and women in traditional views of gender roles and unequal power relations throughout the Pacific, contributing to the low status of women and the prevalence of gender-based violence. Victims of violence often do not want to bring shame or humiliation upon their family or the perpetrator, who is often a husband/partner/friend. Thus victims are

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<sup>21</sup> Raewyn Connell, *Gender* (Malden, MA;Cambridge, UK;: Polity, 2002). 142-143.

<sup>22</sup> Secretariat of the Pacific Community, "Beijing + 15: Review of progress in implementing the Beijing Platform for Action in Pacific Island countries and territories," (New Caledonia2010).60

<sup>23</sup> Ibid. 59.

silenced into accepting the pain and abuse as their reality and even if resources exist, few will access them.

True eradication of all forms of violence against women can only be achieved through the work of local women's NGOs, who are physically active on the ground in altering attitudes and beliefs.<sup>24</sup> While it is incredibly important for women to become empowered by realising their rights as a woman, unfortunately there remain some contexts where cultural values and norms persist to limit a women's ability to make strategic life choices. Therefore despite a woman acting out against the norm, their actions may do little to improve the overall situation of women in their community whilst consequently putting themselves in a vulnerable position as a result of their autonomy.

Women's development groups are frequently faced with resistance from women who believe that change will worsen things. Kabeer stresses that the project of women empowerment is reliant on both "collective solidarity in the public arena as well as individual assertiveness in the private."<sup>25</sup> Therefore civil society and women's organisations on the ground play a pivotal role in orchestrating the conditions for change as well as lessening the cost of any potential consequences for the individual. Civil society in Melanesia and more broadly in the Pacific are crucial for sustainable development. As previously outlined, culture, custom, tradition and community define and encompass the Pacific people and their environment. Thus, it is necessary to build development on these concepts. As enablers of development, donor's external knowledge and resources are welcomed by Pacific civil society; meanwhile further interference or pressure is often not well received. This research respects the wealth of experience and knowledge donor agencies have in development. However development cannot be applied as a one-size-fits-all framework.

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<sup>24</sup> Monasky, "What's law got to do with it? An overview of CEDAW's treatment of violence against women and girls through case studies." 347

<sup>25</sup> Naila Kabeer, "Resources, Agency, Achievements: Reflections on the Measurement of Women's Empowerment," *Development and Change* 30, no. 3 (1999).457.

It is the responsibility of external agencies, organisations, governments and academics to listen to the needs of the people whom they effectively want to help. Only after listening and actively engaging in a two-way intercultural dialogue, will an external actor have the ability and the legitimacy to act. The significance of culture and religion within the Pacific region needs to be engaged to change attitudes towards women. This is not going to happen solely through the work of outsiders. Given the cultural context of the region, the capabilities of local civil society must be increased, empowering them to take the appropriate action on the ground. Donors need to move away from *ad hoc* project approaches and instead focus towards building long-term strategic partnerships based on consistent resourcing and collaboration, with the overarching vision to support civil society development in each country within the Pacific region.<sup>26</sup> A more strategic partnership action between donors and civil society as defined on paper, will ultimately improve development effectiveness as well as realising the goals of both the Pacific Plan and the Sustainable Development Goals.

The EU has always prided itself on the values of human rights, good governance, democracy and the rule of law. This normative framework is consequently reflected in all its internal and external policies. In 2012 a series of policies and actions to improve the effectiveness and strength of EU aid were released in accordance with the articles of EU external action in the Lisbon Treaty, which stand to “foster the sustainable economic, social and environmental development of developing countries, with the primary aim of eradicating poverty.”<sup>27</sup> *The Agenda for Change (October 2011), Budget Support Guidelines (September 2012)* further established human rights, good governance and democracy as a priority in EU development cooperation. Moreover the *Strategic Framework and Action Plan on Human Rights and Democracy*, in which the EU stated one of its outcomes as “working towards a rights based approach in development cooperation.”<sup>28</sup> verified its commitment to human rights and

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<sup>26</sup> Pacific Islands Association of NGOs (PIANGO), “Pacific Regional CSO Partnership for Development Effectiveness,” (Nadi, Fiji: PIANGO, 2012).8.

<sup>27</sup> *Treaty of Lisbon Amending the Treaty of the European Union and the Treaty establishing the European Community*. Article 10a.

<sup>28</sup> Council of the European Union, “EU Strategic Framework and Action Plan on Human Rights and Democracy,” (Luxembourg 2012). 10.



development in its *Toolbox for a Rights-Based Approach to Development Cooperation*. The EU rights-based approach (RBA) to development cooperation is based on the universality and indivisibility of human rights and the principles of inclusion and participation in decision-making processes; non-discrimination, equality and equity; transparency and accountability.<sup>29</sup>

By committing to an RBA the EU is aiming to integrate all human rights principles into all levels of EU development “covering arrangements both at HQ and in the field for the synchronisation of human rights and development cooperation activities.”<sup>30</sup> The issue of gender equality is also said to be at the heart of EU policy and is therefore acknowledged within the RBA, emphasising the integral role of gender mainstreaming. The working document for the Toolbox states the “RBA and gender mainstreaming are complementary and mutually reinforcing, and can be taken in parallel without duplication.”<sup>31</sup> From a policy point of view, the EU has firmly solidified its position on the world stage as a serious development actor who is dedicated to support developing countries achieve sustainable development and ultimately a more stable and prosperous world for all. The EU has committed itself to an approach that goes above and beyond the traditional needs-based approach. In pledging to operate in a human rights framework, the EU is pushing for a bottom-up approach. A bottom-up approach to development recognises the value of empowering local ownership, local ideas and local participation in the sustainable development process. This research is interested in understanding the exact reach and impact of these policies and commitments on the local civil society in Melanesia. Are the processes of the EU RBA having an observable impact on the capacities of civil society to target issues surrounding gender-based violence and ultimately the overarching goal of gender equality?

In the Pacific region, the EU has in recent years become more of a focal development actor. Previous relations were grounded only in EU-ACP relations

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<sup>29</sup> "Council conclusions on a rights-based approach to development cooperation, encompassing all human rights," (Brussels 2014).2.

<sup>30</sup> "EU Strategic Framework and Action Plan on Human Rights and Democracy."

<sup>31</sup> Ibid.

under the Cotonou Agreement. In recent years, following criticism of their engagement (or lack of) with the Pacific, the EU has sought to strengthen development ties with the region and the many countries that lie within its borders. This can also be seen as a strategic move on the behalf of the EU because of the Pacific's "geostrategic importance as well as its vulnerability of its states to climate change."<sup>32</sup> In its *Joint Communication Towards a renewed EU-Pacific Development Partnership (2012)* the EU envisages to improve its presence and effectiveness in the region by "renewing and reinforcing its partnerships beyond a donor-recipient relationship."<sup>33</sup> Strategy programming is in line with global EU development priorities, as well as implementing the *Agenda for Change*. Together with partner countries and regions, the European Commission and the European External Action Service (EEAS) define development assistance strategies, priorities and funding allocations.<sup>34</sup> In 2014, the EU released *EU-PIFS Regional Indicative Programme 2014-2020* for the Pacific region and country specific *National Indicative Programmes 2014-2020* for Pacific countries, which outline the target priorities for aid allocation under the 11th EDF.

## **The Importance of Culture**

People throughout the Pacific region are defined by their culture and custom. Culture can be defined as including both the material and non-material aspects of the way of life held by a certain people.<sup>35</sup> Material culture describes buildings, technology canoes and other artefacts while Naidu describes non-material culture as representing the symbolic, value, belief and institutional dimensions of a certain way of life.<sup>36</sup> Therefore culture is a lens through which reality is

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<sup>32</sup> Geert Laporte and Gemma Pinol Puig, "The future of Pacific-EU relations: with or without the ACP?," (Brussels: European Centre for Development Policy Management, 2013).6.

<sup>33</sup> European Commission, "Towards a renewed EU-Pacific development Partnership," ed. High Representative of the European Union for Foreign Affairs and Security Policy (Brussels 2012).

<sup>34</sup> "Programming" European Commission International Cooperation and Development, accessed 21 December, 2016. [http://ec.europa.eu/europeaid/funding/funding-instruments-programming/programming\\_en](http://ec.europa.eu/europeaid/funding/funding-instruments-programming/programming_en)

<sup>35</sup> Vijay Naidu, "Modernisation and Development in the South Pacific," in *Passage of Change: Law, Society and Governance in the Pacific*, ed. Anita Jowitt and Dr Tess Newton Cain (Canberra: ANU E Press, 2010). 25.

<sup>36</sup> Ibid. 25.

constructed, defined and interpreted through.<sup>37</sup> As a result, people from different cultural contexts and traditions will experience life in very different ways. Culture is often related to customs, traditions and ancient practises.<sup>38</sup> In regards to human rights, culture in the Pacific Islands can either assist or hinder the promotion of human rights.<sup>39</sup> Wickliffe states, "no one can ignore the central role culture plays in determining the way people in the Pacific relate to each other and their communities...it reflects the values and norms of Pacific societies."<sup>40</sup> Therefore the problem remains how to eliminate gender-based violence against women and achieve overall gender equality within the diverse traditional, cultural and religious landscape of Melanesia. The notion of women's rights being essential to development, presents the question to Melanesian societies of how to unify local cultures and religious beliefs that may contradict gender equality, with human rights?<sup>41</sup> Documents, theories and literature on the issue of violence against women typically talk about culture as a "barrier to progress."<sup>42</sup> However cultural practises cannot be used as an excuse to justify the violation of any universal human rights. All too often human rights and culture are pitted against each other. This research looks at the equal importance of both concepts, as it is important to understand the cultural context if there is to be any hope of bringing about change on the human rights front.

## **Interculturalism and Intercultural Dialogue**

The term interculturalism has slowly surpassed its predecessor multiculturalism, as being the way in which societies are organised to exist. Multiculturalism is by most accounts the way in which society has organised

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<sup>37</sup> Anthony J. Marsella and Ann Marie Yamada, "Culture and Psychopathology: Foundations, Issues, Directions," *Journal of Pacific Rim Psychology* 4, no. 2 (2010).105.

<sup>38</sup> Sally Engle Merry, "Human Rights Law and the Demonization of Culture (And Anthropology Along the Way)," *PoLAR: Political and Legal Anthropology Review* 26, no. 1 (2003). 60.

<sup>39</sup> Caren Wickliffe, "An Overview of human Rights Developments in the Pacific Region with an Emphasis on the Collective Right to Self Determination," in *Collective Human Rights of Pacific Peoples*, ed. N Tomas (Auckland: International Research Unit for Maori and Indigenous Education, University of Auckland, 1998).

<sup>40</sup> Ibid.168.

<sup>41</sup> Anna-Karina Hermkens, "'Raits blong mere'? Framing Human Rights and Gender Relations in Solomon Islands," *Intersections: Gender and Sexuality in Asia and the Pacific*, no. 33 (2013).

<sup>42</sup> Merry, "Human Rights Law and the Demonization of Culture (And Anthropology Along the Way)." 60.

itself, with cultures living alongside one another yet remaining separate. Multiculturalism it would seem is built on celebrating difference. Wood *et al.* state that multiculturalism is founded on the belief of tolerance between cultures.<sup>43</sup> Rather than interacting and striving for cohesion across communities, a multiculturalist society rejects a common culture and therefore encourages disunity and resentment within the community.<sup>44</sup> While this may be acknowledged as a good thing as it allows a culture to continue to exist, it also encourages "resentment, fragmentation and disunity."<sup>45</sup> Thus as a result of a multiculturalist policy, cultures retreat into themselves creating a 'them versus us' mindset within and between societies. Taufu Vakatale highlights in the Fijian context that it is the celebration and acceptance of diversity that maintains a "separateness and fails to create a sense of unity and cohesion."<sup>46</sup> Thereby further establishing the role of the West as an outsider imposing Western norms on indigenous and traditional custom and culture. While communication is foundational to both multiculturalism and interculturalism,<sup>47</sup> interculturalism relies on communication to "facilitate dialogue, exchange and reciprocal understanding between people of different backgrounds."<sup>48</sup>

In terms of development and the human rights framework, multiculturalism isolates developing countries from the developed world. Interculturalism on the other hand promotes interaction within different cultures reinforcing social cohesion through the creation of bridges links among people/communities/societies. Despite the former having both social and political recognition, it risks division by accentuating the preservation and promotion of separated cultures. An interculturalist society promotes interaction

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<sup>43</sup> Charles Landry and Jude Bloomfield Phil Wood, "Cultural diversity in Britain: A toolkit for cross-cultural co-operation," (The Joseph Rountree Foundation, 2006).7.

<sup>44</sup> David Goodhart, "Too Diverse?," *Prospect Magazine* 2004.

<sup>45</sup> Tariq Modood and Nasar Meer, "Interculturalism, Multiculturalism or Both?," *Political Insight* 3, no. 1 (2012). 32.

<sup>46</sup> Taufu Vakatale, "Multiculturalism vs Indigenous Cultural Rights," in *Culture, Rights, and Cultural Rights: Perspectives from the Pacific*, ed. Margaret Wilson and Paul Hunt (Wellington, New Zealand: Huia Publishers, 2000).71.

<sup>47</sup> Tariq Modood and Nasar Meer, "How does Interculturalism Contrast with Multiculturalism?," *Journal of Intercultural Studies* 33, no. 2 (2012). 182.

<sup>48</sup> Phil Wood, "Cultural diversity in Britain: A toolkit for cross-cultural co-operation."

within different cultures and therefore gives light to the term intercultural dialogue.

Intercultural dialogue is described as being a condition and an indispensable means for progression towards a better world. The Council of Europe defines intercultural dialogue as an “open and respectful exchange of views”<sup>49</sup> between both individuals and groups with different ethnic, cultural, religious and linguistic backgrounds and heritage. By engaging in intercultural dialogue within and between societies, participants from different cultural backgrounds are encouraged to seek mutual understanding.<sup>50</sup> It requires both parties the freedom to express oneself while at the same time having the willingness and capacity to listen to the views of others. This is incredibly important in the area of sustainable development and development aid as it fosters a relationship based on a mutual understanding for a common purpose between both the donor and recipient.

It is important to note that partaking in intercultural dialogue does not require individuals to sacrifice their own cultural identifications and adopt the cultural practises, beliefs or values of other cultural affiliations.<sup>51</sup> Rather it enables people to interpret and explain different perspectives. However while cultural difference must be respected as previously stated, certain cultural practises or acts in which the fundamental principles of human rights, democracy and the rule of law are violated will not be accepted or respected.<sup>52</sup> As stated by Barrett, “human beings, human rights and the dignity and equality of all people should always be respected, but there are limits on the respect that should be accorded to cultural practises that violate these basic principles.”<sup>53</sup> Hence intercultural

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<sup>49</sup> Council of Europe, "White Paper on Intercultural Dialogue "Living Together as Equals in Dignity", ed. Council of Europe Ministers of Foreign Affairs (Strasbourg 2008).10.

<sup>50</sup> Edward Demenchonok, "Universal Human Rights in a Culturally Diverse World," in *Intercultural Dialogue: In Search of Harmony in Diversity*, ed. Edward Demenchonok (Cambridge Scholars Publishing, 2015). 320.

<sup>51</sup> Martyn Barrett, "Intercultural Competence: a distinctive hallmark of interculturalism," in *Interculturalism and Multiculturalism: Similarities and differences*, ed. Martyn Barrett (Council of Europe, 2013).156.

<sup>52</sup> Ibid.157

<sup>53</sup> Ibid.

dialogue aims to identify both the positives and the challenging within cultural values and power structures in developing societies.

Interculturalism and intercultural dialogue is often discussed in reference to the diverse cultural, religious and ethnic groups within one society, however it is also an indispensable tool in guiding and supporting international relations. Acharya highlights one of the key challenges facing international relations is the collective failure on both the sides of the West and the rest to recognise it as a two-way dialogue<sup>54</sup> in search for a common ground. The United Nations Population Fund (UNFPA) stresses the success of sustainable development relies upon a willingness of development donors and agencies to “listen carefully and invest time in understanding how people think, what they believe and how they behave.”<sup>55</sup> Through a sharing of knowledge reflective of both the donor and recipient, a joint partnership will forge the way for sustainable development.

Western interpretations of human rights versus non-Western interpretations have long been debated on the international scene. Intercultural dialogue on human rights has the potential to overcome the stigmas related to human rights as Western constructs that are imposed on non-Western societies by developing an interpretation of human rights that is acceptable within all societies. While multiculturalism restricts cultures from expanding and interacting with other cultures, interculturalism has the “capacity to criticise and censure”<sup>56</sup> culture, and therefore it is more likely to encompass the protection of individual rights. It is important to note that people are capable to coexist with many cultures. Even those from traditional communities can interact with those who do not integrate with these communities, both which “transmit and receive ideas concerning beliefs, values, customs, and other elements that form a culture.”<sup>57</sup> Hence a culture is not a stagnant thing.

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<sup>54</sup> Amitav Acharya, "Dialogue and Discovery: In Search of International Relations Theories Beyond the West," *Millennium - Journal of International Studies* 39, no. 3 (2011). 636.

<sup>55</sup> "Culturally Sensitive Approaches," *United Nations Population Fund*, accessed August 8, 2016, <http://www.unfpa.org/culture>

<sup>56</sup> Modood and Meer, "Interculturalism, Multiculturalism or Both?."33.

<sup>57</sup> Aline Albuquerque, "Interculturalism, bioethics perspectives, and human rights," *Global Bioethics* 25, no. 2 (2014). 85.

Women's quality of life in both developed and developing countries has greatly improved over the past decades. Women are slowly realising and being realised by society that they too are worthy of having control over their life choices. While society is slowly accepting women as equals to men gender inequalities persist to impose barriers that limit a women's capability to live a life of her choosing. People's cultures, values and beliefs vary between countries, regions and even between cities. It is therefore inapplicable to measure and compare a country's development with another without considering the human aspect. It is time to move the focus of development away from economies and aggregates and instead focus on the people and their quality of life. Quality of life is a much broader concept than economic production and living standards, as it focuses on everything that an individual values in life beyond resources.

### **The Capability Approach: Helping to Understand Gender-Based Violence**

The capability approach is a broad normative framework used in a wide range of fields most prominently in development studies, welfare economics, social policy and political philosophy. It is used to evaluate and assess individual and group wellbeing as well as an alternative framework to design and evaluate policies both in developed countries as well as development policies by governments and NGOs.<sup>58</sup> Though it is often discussed in abstract and philosophical terms in academia the capabilities approach is used for applied and empirical studies. It has also provided the theoretical foundations of the human development paradigm, which focuses on human agency in development.<sup>59</sup>

The capabilities approach developed by Nobel laureate, Amartya Sen, was originally pioneered within an economics framework. It has since been rigorously applied in the field of development studies in order to examine and

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<sup>58</sup> Ingrid Robeyns, "The Capability Approach: A Theoretical Survey," *Journal of Human Development* 6, no. 1 (2005):94.

<sup>59</sup> Sakiko Fukuda-Parr, "The human development paradigm: operationalizing Sen's ideas on capabilities," *Feminist Economics* 9, no. 2-3 (2003).

measure the quality of life. Rather than focussing on the varying conditions in which a person lives, Sen concentrates on the actual life an individual is able to achieve, posing the question, “what are the people of the country in question actually able to do and be?” In order to analyse the wellbeing of an individual the capabilities approach encourages us to look beyond resources by focussing on both the capabilities and functionings of people. Simply put, capabilities are people’s potential functionings, which themselves consist of an individuals beings and doings. The difference between a capability and a functioning is similar to achievement and the freedom to achieve. Therefore the capability approach encourages analysis into the relationship between the possible and the actual. In short, the quality of life of an individual is better analysed by looking at the opportunities and choices available to a person rather than focussing on their achieved functionings.

The capabilities approach consists of a set of important and dependent concepts: capabilities, functionings, agency and freedoms. Together these concepts form the normative capabilities framework. Functionings represent multiple aspects of life that are of value to an individual. Sen argues functionings are constitutive of a person’s being and therefore “an evaluation of well-being has to take the form of an assessment of these constituent elements.”<sup>60</sup> In simple terms, functionings means the “beings and doings” of an individuals life, such as being able to travel or being able to take part in political decisions. That is, “the extent of their opportunity set and of their freedom to choose amongst this set, the life they value.”<sup>61</sup> Capabilities on the other hand reflect the alternative combinations of functionings an individual can achieve.<sup>62</sup> Alkire defines capability as a ‘budget set’, containing a set of “real opportunities that you could use in one way or another, the paths that lie open before you.”<sup>63</sup> In simple terms, capability refers to a persons ability to achieve certain valuable functionings.

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<sup>60</sup> Amartya Sen, *Inequality reexamined* (New York;Oxford [England];: Russell Sage Foundation, 1995).39.

<sup>61</sup> Amartya Sen Joseph E. Stiglitz, Jean-Paul Fitoussi, *Mismeasuring our lives: why GDP doesnt add up* (New York: The New Press, 2010). 16.

<sup>62</sup> Amartya Sen, "Capability and Well-Being," in *The Quality of Life*, ed. Amartya Sen and Martha Nussbaum (Oxford: Clarendon Press, 1993).31.

<sup>63</sup> Sabine Alkire, "Why the Capability Approach?," *Journal of Human Development* 6, no. 1 (2005).



While this research does not deny the important contribution resources make to the well-being of individuals, it has chosen to use a limited focus by assessing only the capabilities of Pacific women. The novelty of the capabilities approach, and perhaps also a challenge, is the capabilities approach is a normative tool rather than a specified theory as such.<sup>64</sup> This is not a concrete theory or mathematical algorithm that will prescribe an accurate measure of inequality or poverty. What it does do is advocate for capabilities to be priority for evaluations. Neither does the approach dictate which capabilities are more important, or how different capabilities should be quantified. Much like human rights, capabilities can be drawn into a validity debate. However, this research will attempt to shine light on the advantages of adapting the capabilities approach to assess the impact of development initiatives on the awareness of gender-based violence in the Pacific.

It also is of strong belief that development policies of donors such as the EU should apply and utilise the capability approach in order to ensure sustainable development in all developing countries. By adapting Sen and Nussbaum's Capabilities approach to include an intercultural perspective, this study attempts to understand how the EU's RBA is supporting rural women of the West Pacific in order to achieve their full capabilities and ultimately raise awareness of gender-based violence. The capabilities approach provides a more-gender-sensitive agenda as it emphasizes the importance of expanding the capabilities and functionings of all individuals. Furthermore, the capabilities approach is sensitive to particular discrimination women face in their lives independent from incomes and economic growth.<sup>65</sup>

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<sup>64</sup> Ingrid Robeyns, "SEN'S CAPABILITY APPROACH AND GENDER INEQUALITY: SELECTING RELEVANT CAPABILITIES," *Feminist Economics* 9, no. 2-3 (2003).<sup>64</sup>

<sup>65</sup> Fukuda-Parr, "The human development paradigm: operationalizing Sen's ideas on capabilities."314.

## **Research questions**

To what degree can an EU RBA impact the capacity of civil society to promote gender equality and counter gender-based violence in Melanesian societies?

Sub-Questions:

- How is the rights-based approach process operationalized on the ground in the Melanesian context?
- What is being done to address the capacity of civil society in Melanesia?
- How does culture and religion inform the capacity of civil society?
- To what degree are culture and religion being mobilised by the EU in their development cooperation with the region of Melanesia (as represented in EU policy/strategy documentation)?

## **Methodology**

As this research employs the principles of a rights based approach it was felt appropriate to slightly change the direction of the research question in order to assess the impact of the RBA on the capacity of civil society to raise awareness of GBV. Rather than dictate the focus of this external research, it was felt that it should be those who are actually on the ground and who live and breathe this reality, who should say where the issue lies. As an outsider to the Pacific region, in order to legitimise and validate her position, the researcher wanted to practise what she preached and listen to the voices on the ground.

The research undertook interviews in Suva, Fiji with representatives of civil society, leading change on the human rights front throughout the Pacific. The data collected from the open-ended interviews were used to frame the analysis. By doing this it is hoped this study is a voice for the civil society of Melanesia in an effort to raise awareness with the donor community. Donors such as the EU, who are guided by the RBA, have an obligation as a donor agency to create an

enabling environment, in which sustainable development can occur. It is not the duty of donors to create development; rather it is their duty to enable it.

By increasing the capacity of civil society to raise awareness of GBV, donors are simultaneously contributing to the realisation of gender equality whilst also promoting an empowerment approach through local participation and local ownership. It therefore was deemed appropriate to undertake an impact assessment modelled on a type of social impact assessment and human rights impact assessment, but instead of measuring the impact of human rights and/or women's rights, it instead focuses on the capacity of civil society.

It was originally proposed to undertake a type of HRIA on a more limited scale in order to assess the effectiveness of the European Union's rights-based approach in improving the awareness of gender-based violence in Melanesian societies. However after analysing the data collected from interviews it was apparent that it was the weak capacity of civil society that was hindering the development of women's rights and awareness around gender-based violence. When asked, what are the biggest barriers to overcome as an NGO advocating for women's rights? The answer was centred round funding and resources. For example Interview Participant Two highlighted the flow-on effects from lack of long-term/core funding stating: "if there is no core funding, you have no long term funding you lose good staff; you lose people that can use RBA, and in the end the quality or effectiveness of the work is not really there because it has been just ticking the boxes rather than just doing the work."<sup>66</sup>

## **Hypothesis**

This study hypothesises that a lack of intercultural understanding on behalf of the EU in implementing their RBA in the Pacific will indirectly impact the effectiveness of development programmes to improve the real capabilities of women in the Melanesia region. By applying an interculturalist view to the

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<sup>66</sup> Interview Participant 4, recorded on Friday 26 August, 2016 in Suva, Fiji.

capabilities framework and sharing a two-way dialogue between donor and local communities, donors gain a more thorough understanding and appreciation for the values and realities of the actual lives of the recipients and thereby support women in expanding and achieving their full capabilities. Ultimately, empowering women by giving them agency and ownership over their own freedoms.

## **Limitations**

As an outsider both as a researcher and as a woman of New Zealand European descent, it was important to complete this research with the input of Pacific voices. Thereby grounding the study in reality and providing a solid contextual framework upon which to apply the previous desk-based analysis. It is the responsibility of development agencies, governments and academics alike to listen to Pacific voices in order to not lose sight of the human perspective. However this study cannot escape being an outsider looking in. From this viewpoint this study does not claim to understand the specifics of Melanesian people or their culture, traditions or religion. Rather, by upholding a neutral position it can draw non-biased attention to the gaps and highlight the need for further research in this area in order to achieve development effectiveness on behalf of the EU and gender equality in Melanesia. One of the main objectives throughout the duration of this research was to carry out a human dignified study in order to advocate for the rights of Melanesian women.

The research is limited in its scope as a result of only conducting fieldwork in Suva, Fiji, while the focus of the project being the entire region of Melanesia. The research acknowledges the diversity that exists between the countries of Melanesia as well as the diversities that vary between communities and villages. However as a result of a limited timeframe and limited resources it was thought that conducting fieldwork in Suva alone would provide a reasonable overview of what is actually happening on the ground. While Suva is acknowledged as the political and administrative hub for the South Pacific, there remains a risk of over generalisations. The restricted fieldwork in turn resulted in a limited

number of eight interviews. More interviews and corresponding data would have helped in further formulation of concrete findings and recommendations. However the small and select few organisations who were interviewed did have knowledge of the wider region of Melanesia through outreach programmes which extend throughout the South Pacific.

This research also recognises the difficult nature of measuring and quantifying human rights and thus can be at risk of overgeneralising the assessment of human rights impacts. This is further complicated in Melanesia in regards to gender-based violence with the absence of reliable data. Another interview participant indicated that data in the Pacific has been compared to “drawing blood from a stone”<sup>67</sup> which makes it difficult to draw concrete conclusions. This can be seen to be a result of the size and diversity of the region which can make the collection of data an ominous task, particularly for countries with limited resources.

It should also be recognised that despite this research paying particular attention to the EU RBA, interviews were unable to be attained at the Pacific Delegation to the European Union in Suva.<sup>68</sup> While it would have been extremely beneficial by allowing the EU to explain their position on human rights and the capacity of civil society, interviews were achieved with representatives from other donor agencies also practising a rights-based approach. It was thought that interviews with other donor agencies would give an insight into how a RBA was put into practise in the region and would be similar to that of the EU’s operationalisation of the approach. As this study is also framed by a RBA and focuses on the capacity of civil society in the region, it was deemed more important to focus on the thoughts and perceptions of civil society itself in assessing the impact of the EU’s actions and policy in the Pacific.

Gender-based violence is a problem societies face worldwide. GBV in the Pacific has particularly high rates of GBV and has been targeted as an issue impeding

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<sup>67</sup> Interview Participant 7, recorded on Thursday 1 September, 2016 in Suva, Fiji.

<sup>68</sup> There was mutual correspondence between the researcher and selected representative however due to time constraints and health issues an interview was unsuccessful.

development in the region.<sup>69</sup> This study chose to focus solely on the region of Melanesia in the South Pacific which includes the countries of Fiji, Papua New Guinea (PNG), Solomon Islands, Vanuatu and the French Overseas Territory of New Caledonia. Melanesia was chosen in order to limit the scope of the study. While information relating to the countries of Fiji, PNG, Solomon Islands and Vanuatu was relatively accessible; it was very difficult to find information relating to the national laws, policies and agreements of New Caledonia. As a predominantly French speaking nation it was very hard to identify and analyse documents due to language constraints. It was initially planned to have a strong focus on New Caledonia in order to identify and compare their development relationship with the European Union, as an Overseas Territory of France.

The potential benefit of a human rights based approach to development in relation to gender-based violence in Melanesia, can be its ability to address root causes, social inequalities and discrimination that lay at the heart of the issue. Women and girls in Melanesia need space for participation and to be allowed a voice in decisions that are going to directly affect them in order to have a positive impact. By encouraging a bottom-up approach and allowing local ideas and ownership in development programming, programmes will resonate with local women and lead to overall sustainable human development.

As the current situation in Melanesia and throughout the entire Pacific region suggests, the task of improving the awareness of gender-based violence and achieving gender equality is an immense challenge. Political, economic and social reforms are happening with local, regional and international organisations playing a leading role in advocating and advancing human rights in the region. Sustainable change will not happen immediately and may not be seen for some time as a result of deeply embedded patriarchal norms and systems. It is a matter of addressing each and every barrier to gender equality through an intercultural lens with careful assessment and application of rights language at all levels of development policy.

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<sup>69</sup> See the “Pacific Leaders’ Gender Equality Declaration”, “Climate change, disasters and gender-based violence in the Pacific”, UNWomen.

Development projects and programmes should not be measured in short-term tangible results. There is no easy fix for gender inequality in any society. Intergenerational cultural and social contexts are the root cause for gender inequalities such as gender-based violence especially in regards to the diverse region of Melanesia in the Pacific. The European Union and fellow development donor agencies in the Pacific have identified the value of a human rights-based approach (HRBA) to development coordination. Donors are now wanting to see projects that are being modelled on this approach however questions remain around whether or not these strategies for implementing a HRBA a filtering down to organisations and corresponding projects on the ground. Rights-based approaches are currently in fashion in the development world however it is a very different and complex paradigm when compared to results-based and needs-based approaches. This approach should put human rights at the forefront of development programming. Therefore should ultimately successfully target and address the underlying causes of issues around gender equality such as gender-based violence with a focus of long-term results and sustainability. This study hopes to shed light on the potential effectiveness of the EU's RBA and outline their interaction and collaborations with NGOs in the region of Melanesia.

While limited, this research hopes to raise awareness and draw attention to the potential gaps between theory and practise in development in the Pacific. This research shows and insight to what is actually happening on the ground when donors such as the EU are using the term RBA. In presenting these findings it hopes to encourage further research to delve deeper into an analysis of the effectiveness of the use of RBA in development and more specifically in the context of GBV. These knowledge gaps need to be addressed for the women and girls of the Pacific and for real sustainable development to be realised.

## **Outline of Study**

The thesis follows a logical order into separately examining the role of the EU as a development actor, and the current situation for women in Melanesia before

examining the actual impact of the EU's RBA on the capacity of civil society to address GBV.

The first chapter delves into the meaning of a human rights-based approach to development cooperation before addressing the EU's current commitments to development, particularly focussing on the Pacific region, in order to give a background to EU-Pacific relations. Towards the end of the chapter, the last sections will outline the EU's policies towards gender and women empowerment in third countries.

The second chapter looks at culture within Melanesian societies and attempts to portray an accurate representation of why culture and human rights are perceived as conflicting concepts. The chapter further analyses the role of women in Melanesian societies and looks at the benefits of applying an intercultural framework to development in order to reconcile culture with human rights to overcome gender inequalities.

The third chapter focuses on the important role of civil society in development, particularly in Melanesia. The chapter also includes a review of the literature elaborating the application of the capabilities approach to measure human development. This section also introduces an original adaptation of the approach to include an intercultural perspective in order to analyse the capacity of civil society in the Pacific.

The fourth chapter looks at impact assessments and outlines the methodological steps undertaken in this study. It logically outlines the history and literature around impact assessments, further investigating the steps within human rights impact assessments and their role in decision-making.

Finally, the fifth chapter presents an assessment of the EU's actions and impact on the ground in Melanesia. This chapter is divided into four sections: a desk-based analysis of the women's rights situation in Melanesia, the capacity of civil society, the role of culture and religion and an insight into donor relations



between the EU and Melanesian countries. This chapter gives an in-depth analysis into the gaps that remain between EU policy and action, which are further drawn on in the conclusion.

## **2. The European Union's Attempt to Improve Development**

### **What is a Human Rights-Based Approach to Development?**

According to the European Commission a human rights-based approach (HRBA) considers human rights standards and principles “both as a means and a goal of development cooperation.”<sup>70</sup> A HRBA aims to integrate human rights into development programming in order to encourage a conceptual shift from a needs-based approach to viewing development as a means of empowering people through an inclusive and participatory approach.<sup>71</sup> The human rights framework gives development organisations legitimacy as it puts their objectives alongside universally shared and respected norms. External actors are no longer intended to be substitutes for absent governments. Rather a HRBA directs their focus toward capacity building among civil society and justice systems whilst at the same time empowering individuals, in order for the society as a whole to hold the state as primary duty-bearer accountable.<sup>72</sup> Therefore encouraging a more successful and sustainable development.

Traditional approaches to development focused on the needs of the poor and the provision of specific aid, whilst an HRBA focuses on the rights of people. Through a human rights lens, poverty is no longer a result of a lack of resources, rather a result of discrimination and power imbalances at government level. Thus HRBA strives to empower people enabling them to take control of their own lives by standing up and arguing for what is rightfully theirs. Furthermore, it poses a difficult question as we are asked to understand and discuss the situations of

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<sup>70</sup> Council of the European Union, "Commission Staff Working Document Toolbox A Rights-Based Approach, Encompassing All Human Rights for EU Development Cooperation," (Brussels 2014).

<sup>71</sup> Maxi Ussar, "The Human Rights-Based Approach: A More Effective Framework for International Development Policies in New EU Member States," (London: Minority Rights Group International, 2011). 7.

<sup>72</sup> Hans Peter Schmitz, "A Human Rights-Based Approach (HRBA) in Practice: Evaluating NGO Development Efforts," *Polity* 44, no. 4 (2012).525.

people in terms of human rights rather than involving charity or development. A rights-based approach therefore promotes and supports development sustainability. It empowers all people from within communities no matter how marginalized with the knowledge and the tools to realise and fight for their rights.

If applied correctly donors have the ability to contribute to an enabling environment in which allows for marginalized voices to be heard. The long-term goal of a rights-based approach aims to break down discriminatory traditions and social norms that directly impact on the realization of human rights for all. While it can be easy enough to understand the concept of human rights and their existence and non-existence in the world, it can be challenging to articulate their relationship within real-life situations. It is essential to understand that providing basic needs and services with the objective of sustainable development is different to working towards improving the wellbeing and quality of life enjoyed by individuals. A RBA to development is built on the dignity and wellbeing of all human beings, with the conviction that “each and every human being, by virtue of being human, is a holder of rights.”<sup>73</sup>

A rights-based approach to development engages both men and women, girls and boys and their communities to develop and oversee their own strategies to address gender inequality and specifically violence against women. In addressing the root causes of poverty and corresponding gender inequalities the HRBA supports inclusiveness and participation. It is essentially a shifting of power relations within the framework of development policy. HRBA gives power through voice to the poor and marginalized. In the example of this study, it gives a voice to women, previously banished from playing any leading role in society. Therefore RBA projects through the processes of empowerment, aim to ensure safety and coherence in the shifting of power to those traditionally marginalized, for the benefit of all.<sup>74</sup> Such a transformation includes both external resources

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<sup>73</sup> International Human Rights Internship Program, "Circle of Rights: Economic, Social and Cultural Rights Activism: A Training Resource," (2000). Module 1.

<sup>74</sup> UK Interagency Group on Human Rights Based Approaches, "The Impact of Rights-Based Approaches to Development," (2007).13.

(supportive political systems, land, cultural norms and traditions) and internal capacities (knowledge and self-confidence).<sup>75</sup> Such resources and capacities have the ability to shape how a person defines themselves within society and essentially influences the way they lead their life.

As a result of viewing development through a human rights lens, gender equality is at the forefront of all development goals and strategies highlighting the intrinsic role it plays to human wellbeing.<sup>76</sup> Prevention and response programmes on violence against women must be grounded in a right-based framework in order for them to be both successful and sustainable.<sup>77</sup> A rights-based framework targets underlying causes of gender inequalities and aims to institutionalise capacities.<sup>78</sup> In reference to RBAs and gender-based violence, a study conducted by the Fiji Women's Crisis Centre, rights-based and integrated feminist approaches that encompassed both prevention and response were highlighted as "essential to eliminate and circumvent violence before the behaviour is repeated by future generations."<sup>79</sup> Thus RBAs have the potential long-term effectiveness to create sustainable and enabling environments.

While HRBAs are grounded in the human rights framework and are increasingly incorporated into global development projects, programming and evaluation, questions remain around the effectiveness and implementation of the approach to bring about actual change. The rhetoric of the approach is phenomenal across all development actors and agencies including the EU, however questions remain as to how rhetoric is transformed into action on the ground. The capacity of the approach to implement successful and sustainable change is complex and under-

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<sup>75</sup> Gita Sen and Avanti Mukherjee, "No empowerment without rights, no rights without politics: Gender-equality, MDGs and the post-2015 Development Agenda," *Journal of Human Development and Capabilities* 15, no. 2-3 (2014).190.

<sup>76</sup> New Zealand International Aid and Development Agency, "Achieving Gender Equality and Women's Empowerment." 10.

<sup>77</sup> Fiji Women's Crisis Centre, "Feminist basis essential for successful initiatives," *Pacific.Scoop* August 18, 2016. <http://pacific.scoop.co.nz/2016/08/feminist-basis-essential-for-successful-initiatives/>

<sup>78</sup> Schmitz, "A Human Rights-Based Approach (HRBA) in Practice: Evaluating NGO Development Efforts."539.

<sup>79</sup> Fiji Women's Crisis Centre, "Somebody's Life, Everybody's Business! National research on women's health and life experiences in Fiji (2010/2011): A survey exploring the prevalence, incidence and attitudes to intimate partner violence in Fiji," (2013). 154.

researched.<sup>80</sup> By incorporating human rights into development programming, it does not mean to say that because a project targets a human rights issue it is taking on a RBA. Rather a true RBA is built on the principle that how things are done or the processes are equally important as to what is being done.

Change is a fundamental notion in human rights-based approaches both at the organisational level and on the ground or social level. Schmitz states that organisations have developed their own interpretation of the approach, “shaped by pre-existing understandings of the core development challenges and the unique organizational context of each agency.”<sup>81</sup> HRBAs are a very different development paradigm compared to that of other approaches such as needs-based and results-based. It involves a huge change in how organisations think and what they value - but also operationally and how they implement projects and strategise their work. It can be a huge struggle for organisations, especially local organisations such as in Melanesian countries who may lack the capacity and knowledge to implement an HRBA.

Recent studies have acknowledged the complexity in the implementation of the HRBA rhetoric and have attempted to examine the meaning and relevance for actors on the ground.<sup>82</sup> According to Vandenhoe and Gready who highlight various factors of what stand between organisations implementing a successful HRBA namely the tension between HRBA (long term project of realizing human rights) and short term focused results-based management (RBM).<sup>83</sup> RBM is described as assuming a “linear cause and effect relationship between

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<sup>80</sup> Wouter Vandenhoe and Paul Gready, "Failures and Successes of Human Rights-Based Approaches to Development: Towards a Change Perspective," *Nordic Journal of Human Rights* 32, no. 4 (2014):292.

<sup>81</sup> Schmitz, "A Human Rights-Based Approach (HRBA) in Practice: Evaluating NGO Development Efforts."540.

<sup>82</sup> See Tine Destrooper, "Linking Discourse and Practice: The Human Rights-Based Approach to Development in the Village Assaini Program in the Kongo Central," *Human Rights Quarterly* 38, no. 3 (2016); Schmitz, "A Human Rights-Based Approach (HRBA) in Practice: Evaluating NGO Development Efforts." Susan O'Leary, "Grassroots accountability promises in rights-based approaches to development: The role of transformative monitoring and evaluation in NGOs," *Accounting, Organizations and Society* (2016); Bridget Lewis and Rowena Maguire, "A Human Rights-based Approach to Disaster Displacement in the Asia-Pacific," *Asian Journal of International Law* 6, no. 2 (2016).

<sup>83</sup> Vandenhoe and Gready, "Failures and Successes of Human Rights-Based Approaches to Development: Towards a Change Perspective."298-99.

interventions and outcomes.”<sup>84</sup> Whilst on the other hand a HRBA is more normative (like the field of human rights) and therefore change is more long-term and more difficult to identify. These debates portray the difficulty and complexity of the intertwining approaches both old and new. It also proposes a challenge because donors are increasingly demanding evidence. However, as previously stated, the effects of a HRBA are not easily quantified if a true HRBA is being applied. Thus it is particularly hard to evaluate, and could be more effective to evaluate the individual strategies within the approach.

## **EU-Pacific Relations**

The European Union is the world’s largest donor of development aid and the fifth largest in the Pacific region. Over 90 per cent of all aid to Pacific Island Countries and Territories (PICTs) comes from donors.<sup>85</sup> The European Union is recognised as one of the largest donors of development aid in the Pacific region (after Australia, France, Japan, New Zealand, the United States)<sup>86</sup>. Funding is also received from the Asian Development Bank and multilaterally through the UN. China is also rapidly expanding its role as a donor in the region. All donors have their own strategies and consequently there are varying differences in the distribution of aid which can be seen as being the result of colonial and territorial ties. For example the US has a main focus on the three freely associated States (Federated States of Micronesia, the Marshall Islands and Palau), France also focuses on both of its own territories which include New Caledonia as well as contributing to the Africa, Caribbean and Pacific Group of States (ACP) partnership. The total EU funding in particular goes to the fifteen Pacific ACP countries as well as the four Overseas Countries and Territories (OCTs).

As a donor in the Pacific, the EU is both physically and metaphorically an ‘outsider’. By comparison, both New Zealand and Australia (two major donors in

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<sup>84</sup> Ibid.

<sup>85</sup> Tony Crook Camilla Borrevik, Edvard Hviding and Craig Lind, "Directorate-General for External Policies of the Union; European Union Development Strategy in the Pacific," *Policy Department DG External Policies* (2014).25

<sup>86</sup> Ibid.

the region) share strong cultural, economic and political ties with the Pacific. New Zealand and Australian policies toward the Pacific Islands are together aligned in relation to trade, aid and the handling of political crises because of this regional connection. Being perceived as an outsider can have both advantages as well as disadvantages. While the EU is undoubtedly highly experienced and extremely capable in development fields, it must tread carefully when collaborating with the Pacific region. As previously mentioned the Pacific region, and in particular Melanesia has a complex and diverse cultural landscape and place immense value on their communities and cultures. Alternately the EU must harness their experience in collaboration and interaction with countries and civil societies in order for sustainable development to exist. A two way dialogue, consisting of both listening and understanding. This is highly relevant in all development donor-recipient relationships and of particular importance regarding EU-Pacific relations and its previous colonial histories.

In 2004, Pacific Leaders adopted the Pacific Plan in order to strengthen regional cooperation and integration between Pacific countries. The main focus was to unite countries in collective action in the hope of achieving together what could not be achieved alone. The Pacific leaders cited their primary goal as being “to enhance and stimulate economic growth, sustainable development, good governance and security for Pacific countries through regionalism.”<sup>87</sup> Within this agreement, improved gender equality was recognised as a strategic objective through the use of gender mainstreaming. Thus the four pillars of the Plan, economic growth, sustainable development, good governance and security were to incorporate gender in all planning, policy and implementation at all stages of development. However as highlighted in the annual Pacific Plan reports by Cate Morriss, accountability of progress in gender remained elusive for the first three years of the plan.<sup>88</sup> Morriss goes onto to state that within the Pacific Plan, gender issues did not receive priority stand-alone status; rather they were to be incorporated through gender mainstreaming, which was to be broadly

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<sup>87</sup> Pacific Islands Forum Secretariat, "The Pacific Plan For Strengthening Regional Cooperation and Integration," (2005).2.

<sup>88</sup> Cate Morriss, "The Pacific Plan and gender: policies, programs, and (has there been any) progress.," *Social Alternatives* 28, no. 4 (2009).21.

interpreted by national governments.<sup>89</sup> It must be acknowledged however, that there is a gender disparity within these governments and therefore limited measures have been taken to raise the status of women and has not been given the appropriate level of attention and consideration.

In response to the Pacific Plan, the EU promised increased development assistance and enhanced political dialogue in the strategy paper *EU Relations with the Pacific Islands – A Strategy for a Strengthened Partnership* (2006). Following on from this is the most comprehensive and detailed analysis of EU-Pacific relations is outlined in its 2012 Joint Communication: *Towards a Renewed EU-Pacific Development Partnership* in order to put the strategy into effect. Within these frameworks human rights and gender equality have been clearly defined as being among the European Union's priorities in its cooperation with the Pacific. Within this strategy, the EU highlighted gender inequalities that included health, education, economic achievement and gender-based violence, as significant problems facing Pacific women and girls. Gender is stated alongside climate change as being a crosscutting and mainstreaming issue.<sup>90</sup>

### **Cotonou Agreement**

The African, Caribbean and Pacific (ACP) grouping of developing regions and the European Union have shared a legally binding agreement on trade cooperation, development assistance and political dialogue since 1975. Since 2000 this engagement has been defined by the overarching principles within the Cotonou Agreement. The Cotonou Partnership links the world's most poorest and developing nations to the EU in a unique arrangement that declared to operate on the basis of equality between partners.<sup>91</sup>

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<sup>89</sup> Ibid.22.

<sup>90</sup> European Commission, "Joint Communication to the European Parliament, the Council, the European Economic and Social Committee and the Committee of Regions: Towards a renewed EU-Pacific Development Partnership," ed. High Representative of the European Union for Foreign Affairs and Security Policy (Brussels2012).5.

<sup>91</sup> Karin Arts and Anna K. Dickson, "EU Development Cooperation: From Model to Symbol," in *EU Development Cooperation: From Model to Symbol*, ed. Karin Arts and Anna K. Dickson (Manchester and New York: Manchester University Press, 2004).1.

There are four fundamental principles of which the partnership is built on and is stated within the agreement. The first being the ownership of ACP states in the determination of development strategies in their region in return for conditionality around the essential elements of the EU (for example, good governance and respect for human rights). Secondly the agreement promises to include the principle of participation, aiming to promote a broad and inclusive partnership with not only governments but also NGOs, civil society and the private sector. The third element is founded on achieving mutual obligations within the time period of 20 years. These include, the EU committing to reaching the 0.7 per cent official development assistance (ODA) target while ACP governments are committed through international obligations to achieve the Millennium Development Goals (MDGs). And lastly, Cotonou commits the EU to regionalisation that calls on the EU to take into consideration the varying contexts of partner countries and adjust arrangements and priorities appropriately.

Arts and Dickson argue that despite good intentions, European development policy falls short in its delivery. The rhetoric of the EU has created an image of the EU as a leading development partner engaged with the world's poor. However Arts and Dickson question its effectiveness in producing, encouraging or facilitating development.<sup>92</sup> Gomes defines the partnership between the EU with ACP states as being an out-dated fundamental asymmetrical power stemming from centuries of colonialism with trade interests taking preference.<sup>93</sup> Gomes highlights that development cooperation has taken a subordinate status to political and trade interests with Economic Partnership Agreements (EPAs).<sup>94</sup> Within the framework of the EPAs, "the political dimension of development cooperation assumed greater prominence."<sup>95</sup> He goes onto conclude that under the framework of the Cotonou Agreement, the more powerful and industrialised EU gain more from "development cooperation" than the developing states of the

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<sup>92</sup> Ibid.14.

<sup>93</sup> Patrick I. Gomes, "Reshaping an asymmetrical partnership: ACP-EU relations from an ACP perspective," *Journal of International Development* 25, no. 5 (2013).

<sup>94</sup> Ibid.716.

<sup>95</sup> Ibid.



ACP regions. While poverty has reduced under the partnership, it cannot be assumed to be the direct outcome of the EU-ACP development cooperation policy.

There is also now the question of an interest in the ACP group within the Member States of the EU, and in particular for the Pacific region. The context of the world has vastly changed from in which the group was formed four decades previous. With the current turbulent state of affairs in Europe, many of the EU Member States are looking East rather than South, questioning why more financial resources aren't spent in securing and developing their wider neighbourhood.<sup>96</sup> With increasing peace and security fears outside of the ACP-EU framework, it could be argued that the ACP grouping is losing political relevance on the EU's agenda. From the perspective of the EU, despite strength in numbers, the vast diversity within the group has led to a weakness in being able to engage in political dialogue with one voice.

Despite the idea of the ACP grouping being relatively successful in bringing developing regions together to share problems and solutions, the Pacific has been described as being lost among the larger regional groups of Africa and the Caribbean and more recently within the Asia-Pacific. This can be witnessed in the group's inability to convey one voice as well as highlighted in the argument of little variation in EU relations between regions. This significantly impacts on the validity and sustainability of relations as the local and cultural context is lost, which this study has previously identified as being a crucial element in the effectiveness of political and economic relations with the Pacific region.

A study undertaken the European Centre for Development Policy Management in 2013 revealed that despite the Pacific having positive perceptions of the EU in the region their relationship has caused some disenchantment. The study highlights the obvious attraction of Africa, and conflating feelings of

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<sup>96</sup> Geerte Laporte, "What future for the ACP and the Cotonou Agreement: preparing for the next steps in the debate," (Maastricht: European Centre for Development Policy Management, 2012).3.

marginalisation.<sup>97</sup> With the exception of France, this ignorance reflects the lack of political and economic interest in the region among EU member states. There is a gap in the field of current research around development in the Pacific and specifically in regards to the European Union. Whether or not this reflects the involvement and overall interest of the EU to the Pacific remains to be seen. The lack of information available has directed this research to rely on limited and out-dated studies.

### **European Union Rights-Based Approach to Development and Aid Effectiveness Agenda**

The European Union's approach to development has been centred on the Millennium Development Goals up until the end of 2015 which saw the introduction of the Sustainable Development Goals (SDGs) framework. The EU has placed a huge importance on the respect for human rights and good governance as necessary for achieving sustainable development. As an international donor, the EU has increasingly incorporated human rights within its development cooperation policies. In 2012 a series of policies and actions aimed at improving the rights-based approach in development cooperation were launched including *The Agenda for Change (October 2011)* and *Budget Support Guidelines (September 2012)*. These established human rights, good governance and democracy as a priority in EU development cooperation. This intended to promote both human rights and democracy "from cross-cutting issues to something akin to a sector."<sup>98</sup> Further in 2012, the EU released the *Strategic Framework and Action Plan on Human Rights and Democracy*, in which the EU committed itself to promoting human rights in both its development activities and in related advocacy activities by "working towards a rights based approach in development cooperation."<sup>99</sup> To strengthen EUs efforts in assisting partner countries in achieving their own international human rights obligation, they

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<sup>97</sup> Puig, "The future of Pacific-EU relations: with or without the ACP?."9.

<sup>98</sup> Evaluation Unit of the Directorate-General for International Cooperation and Development, "Evaluation of EU Support to Gender Equality and Women's Empowerment in Partner Countries," (Brussels: European Commission, 2015). 64.

<sup>99</sup> Council of the European Union, "EU Strategic Framework and Action Plan on Human Rights and Democracy." 10.

presented the action of developing a “toolbox” for working towards a rights based approach to development (RBA),

“with the aim of integrating human rights principles into EU operational activities for development, covering arrangements both at HQ and in the field for the synchronisation of human rights and development cooperation activities.”<sup>100</sup>

It should also be noted that the Framework explicitly covers discrimination and women’s rights, citing the 2010 *EU Gender Action Plan*. In 2014, the Council released its *Conclusions on a RBA to Development Cooperation, Encompassing All Human Rights*, which reiterates the EU’s commitment to promoting all human rights in all areas of external action. Within the conclusions the Council notes the implementation of a RBA should be based on the “universality and indivisibility of human rights and the principles of inclusion and participation in decision-making processes; non-discrimination, equality and equity; transparency and accountability.”<sup>101</sup> In the application of these principles, the approach aims to ensure the empowerment of the most poorest and vulnerable such as women and girls, which in turn is stated as contributing to the reduction of poverty.<sup>102</sup> Thus together the *Strategic Framework*, the *Action Plan for Human Rights and democracy* and the *Agenda for Change* firmly place the promotion and protection of human rights including women’s rights at the centre of its development cooperation. The promotion of human rights, gender equality, democracy, good governance, children’s rights and indigenous peoples, environmental sustainability and combating HIV/Aids are all recognised by the EU as cross-cutting issues in development.<sup>103</sup>

Gender mainstreaming is an integral part of the EU’s RBA as gender equality, non-discrimination on the basis of sex and gender identity and access to sexual

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<sup>100</sup> Ibid.

<sup>101</sup> "Council conclusions on a rights-based approach to development cooperation, encompassing all human rights."2.

<sup>102</sup> Ibid.

<sup>103</sup> Louis Michel, "The European Consensus on Development," ed. Directorate-General for Development European Commission (Luxembourg2006). 44.

and reproductive health are fundamental human rights principles. The Working Document for the Toolbox states the “RBA and gender mainstreaming are complementary and mutually reinforcing, and can be taken in parallel without duplication.”<sup>104</sup> This is further reiterated in the Council conclusions by stating that gender analysis should inform entire project cycles in order to ensure gender becomes an integral part of all stages in development policies and projects.<sup>105</sup> Gender mainstreaming is a tool for achieving gender equality and reducing overall poverty rather than a goal in itself. It is mandated under the 1995 Beijing Platform for Action as fundamental in achieving gender equality and women’s empowerment at all levels of development. Gender mainstreaming ensures that policy-making and legislative work considers the effects on all citizens including women and men, boys and girls. It essentially works to ensure that inequalities throughout society are not perpetuated. EIGE states that gender mainstreaming also involves the analysing of the existing situation in order to identify what gender inequalities do exist and then develop policies which respond to the current situation by aiming to “redress these inequalities and undo the mechanisms that caused them.”<sup>106</sup> Therefore gender mainstreaming has the potential in the longer term to transform discriminatory social institutions as it targets discrimination and inequalities at all levels including within the cultural context of communities. Another long-term advantage of incorporating the approach in development policy is the impact on the quality of aid and aid effectiveness.

While the *quantity* of aid is significant, it is crucial for the sustainability of development in partner countries that the *quality* of aid is viewed with just as much importance. The UN highlights the principles of global partnerships, the *Paris Declaration on Aid Effectiveness (2005)*, *Accra Agenda for Action (2008)* and the *Busan Partnership Agreement (2011)* as contributing towards the changing of the development sphere to include a greater emphasis on improving the quality

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<sup>104</sup> Council of the European Union, "Commission Staff Working Document Toolbox A Rights-Based Approach, Encompassing All Human Rights for EU Development Cooperation."7.

<sup>105</sup> "Council conclusions on a rights-based approach to development cooperation, encompassing all human rights."2.

<sup>106</sup> "What is Gender Mainstreaming?," European Institute for Gender Equality, accessed 25. August 2016, <http://eige.europa.eu/gender-mainstreaming/what-is-gender-mainstreaming>

of aid and its impact.<sup>107</sup> Moreover the objectives of achieving and respecting gender equality, human rights and social inclusion are stated as being integral to how these commitments are realised<sup>108</sup> as they invite dialogue about gender equality between donor agencies and partner countries in policy discussions. With these commitments the EU and other donor agencies stress the importance of “genuine partnerships”<sup>109</sup> meaning partner countries have control over their own development processes. While this is a common theme in the international development sphere, questions remain over how much of this rhetoric is transformed into action. These questions were investigated in the 2012 AidWatch Report which monitors and makes development policy recommendations to EU Member States and the European Commission. The European Union is partner to all the aid effectiveness agreements yet has been criticised for its poor implementation on the ground in partner countries.<sup>110</sup> AidWatch findings highlight the practise of EU aid allocation as not adhering to any development approach be it rights-based, needs-based or results-based. Underlining that EU aid remains a “largely arbitrary, donor-driven process.”<sup>111</sup> In a 2014 report, the EU was criticised again for their lack of recognition and appreciation for Pacific ways of addressing development as well as the need to address use of Pacific friendly delivery methods.<sup>112</sup> It is well-researched and documented, that country ownership of development is a crucial principle in development policy-making and programming if development is to become sustainable. And this is what the EU are obligated to do under their toolbox for a rights-based approach.

While the *Agenda for Change* does not have the ambition to replace the *EU Consensus on Development* (2005), it does represent the main guiding policy document for the future EU development cooperation instruments as well as the

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<sup>107</sup> UNWomen, "Gender Mainstreaming in Development Programming," (New York: UNWomen, 2014). 10.

<sup>108</sup> Ibid.

<sup>109</sup> OECD, "The Paris Declaration on Aid Effectiveness and Accra Agenda for Action," (OECD, 2008).15.

<sup>110</sup> CONCORD AidWatch, "Making Sense of EU Development Cooperation Effectiveness: Special report on the post-Busan development effectiveness agenda," (CONCORD AidWatch, 2012).

<sup>111</sup> Ibid.9.

<sup>112</sup> Camilla Borrevik, "Directorate-General for External Policies of the Union; European Union Development Strategy in the Pacific."30-31.

new programming cycle of EU aid.<sup>113</sup> The *Agenda for Change* has been criticised by the CONCORD Cotonou Working Group for focussing too much on their own agenda for establishing new strategic partnerships to maintain its economic competitiveness.<sup>114</sup> To be effective in achieving sustainable development the EU needs to ensure the *Agenda for Change* is translated into strategies promoting a rights-based approach to development by focussing on overcoming poverty and inequalities found in developing countries. The group highlights the need for the EU to not lose sight of the overarching goal in fighting poverty and inequalities by promoting their own economic and security interests. It is of particular importance the EU contributes at both a national and local level to ensure that these policies are not lost and left empty in the social, economic and cultural contexts.

### **European Union's Commitment to Gender Equality**

The EU has not always viewed gender as a priority in either its internal or external policies. It has only recently gained greater attention with the rise of the feminist movement in the 1960s in which women's rights and empowerment increasingly became an agenda item for international donors.<sup>115</sup> Initially development bypassed women altogether until a network of female development professionals challenged the development framework, arguing that policies and projects designed to assist societies appeared to be simultaneously contributing to the deterioration of the status of women.<sup>116</sup> Therefore the 'women in development' (WID) approach was mainly based on integrating women within the economy as a means of improving their status.<sup>117</sup> Previously, the development framework had reflected women almost "solely in their roles as

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<sup>113</sup> CONCORD Cotonou Working Group, "Trends and Challenges in EU Development Policy: The Agenda For Change," (Brussels: CONCORD, 2013).1.

<sup>114</sup> Ibid.

<sup>115</sup> Marjorie Lister and Maurizio Carbone, "Introduction-Integrating Gender and Civil Society into European Union Development Policy," in *New pathways in international development: gender and civil society in EU policy*, ed. Marjorie Lister and Maurizio Carbone (England;: Ashgate Pub, 2006).3.

<sup>116</sup> Shahrashoub Razavi and Carol Miller, "From WID to GAD: Conceptual Shifts in the Women and Development Discourse," (Geneva: United Nations Research Institute for Social Development (UNRISD), 1995).2.

<sup>117</sup> Ibid.3.

wives and mothers.”<sup>118</sup> As a result of the WID approach focussing on women’s production roles, this meant that women’s subordination was consequently viewed within this economic framework.

The more recent Gender and Development (GAD) approach was a reaction to the WID paradigm, instead using concepts such as gender rather than women, to analyse how development reshaped power relations.<sup>119</sup> Moser notes the importance that it is critical to focus on gender rather than just the category ‘women’ to understand women in relation to men and the “way in which relations between these categories are socially constructed.”<sup>120</sup> The WID approach was increasingly criticised for ignoring the underlying societal problem, namely the unequal gender relations by focussing solely on women.<sup>121</sup> Rather than looking at women as a homogenous group, emphasis was put on the significant differences based on social class, ethnic background, religious beliefs and thereby focussed more on the structural conditions that caused women to be disadvantaged.<sup>122</sup> However in identifying the deeper issues surrounding women’s subordinate position in terms of their relation to men, the cultural, religious and general structure of a society is challenged. To complicate the matter further the GAD framework is criticised as imposing Western norms and values and therefore a modern interpretation of colonialism. There has been much progress to the development framework for women and girls, with many donors now undertaking gender mainstreaming in both internal and external policies.

Reflecting other policy trends, gender was largely excluded from EU development policy up until the early 1980s, when it emerged in response to the WID paradigm which was at the time beginning to influence multilateral

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<sup>118</sup> Ibid.

<sup>119</sup> Lister and Carbone, "Introduction-Integrating Gender and Civil Society into European Union Development Policy."4.

<sup>120</sup> Caroline O. N. Moser, *Gender planning and development: theory, practice, and training*, vol. 1 (New York;London;: Routledge, 1993).3.

<sup>121</sup> Ibid.3.

<sup>122</sup> Kate Young, *Serving two masters: Third World women in development* (Ahmedabad: Allied Publishers, 1989).

institutions.<sup>123</sup> In previous EU policies, gender was an under-emphasised policy area predominantly focussing on issues of employment.<sup>124</sup> While the EU recognised the value of women through their incorporation of the women in development approach, it was a limited view in which Doidge and Holland describe as identifying women simply as, “repositories of needs resulting from their exclusion from the development process, rather than from any underlying structures of power.”<sup>125</sup> This all changed with the European Union playing a significant role in drafting the 1995 Beijing Platform for Action which is described as being a cornerstone for global women’s rights and women empowerment. It declared that equality between men and women is a matter of human rights and a condition of social justice whilst also defining gender equality as a “fundamental prerequisite for equality, development and peace.”<sup>126</sup> The Beijing Conference pushed gender awareness into the international and EU spotlight.<sup>127</sup>

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<sup>123</sup> Martin Holland Mathew Doidge, "A Chronology of European Union Development Policy: Theory and Change," *Korea Review of International Studies* 17, no. 1 (2014). 71.

<sup>124</sup> Mariagrazia Rossilli, "Introduction: The European Union's Gender Policies," in *Gender policies in the European Union*, ed. Mariagrazia Rossilli (New York: P. Lang, 2000).5.

<sup>125</sup> Mathew Doidge, "A Chronology of European Union Development Policy: Theory and Change."72.

<sup>126</sup> "Beijing Declaration and Platform for Action," ed. The Fourth World Conference on Women (1995). Accessed 1 September, 2016.

<http://www.un.org/womenwatch/daw/beijing/pdf/BDPfA%20E.pdf>

<sup>127</sup> Marjorie Lister, "Gender and EU Development Policy," in *New pathways in international development: gender and civil society in EU policy*, ed. Marjorie Lister and Maurizio Carbone (Burlington, VT; Aldershot, Hants, England; Ashgate Pub, 2006). 27.



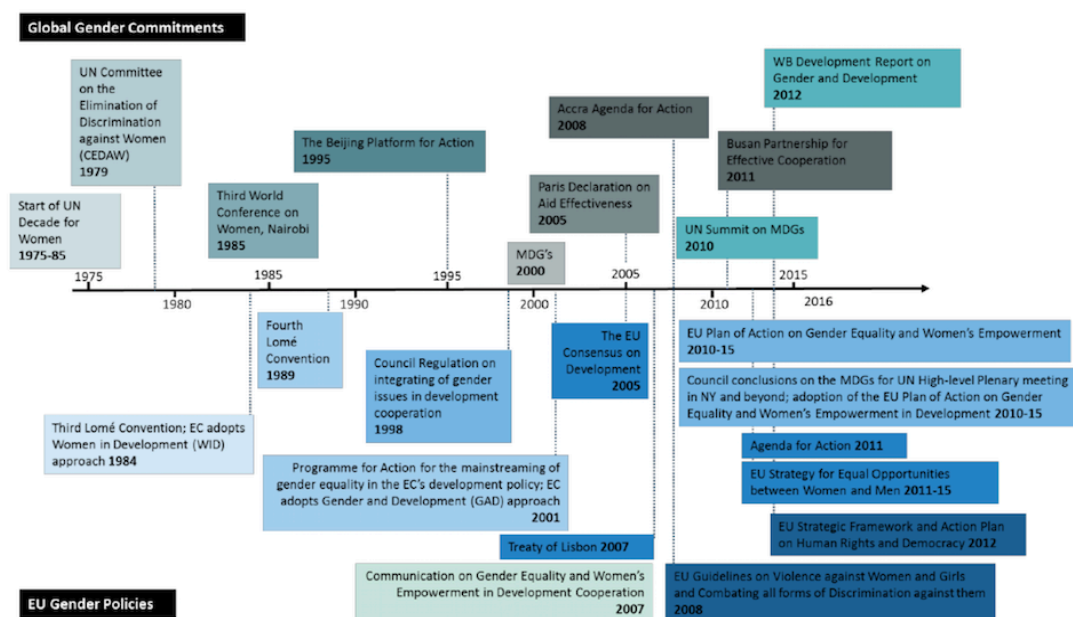


Figure 1 Timeline of global gender commitments and EU gender policies<sup>128</sup>

Figure 1 illustrates the EU's commitment to gender equality and women empowerment has increasingly strengthened since the Beijing Conference. From the cited policy documents, the EU has been commended for their continuing efforts in moving away from women-specific approaches towards broader and all encompassing gender issues in all sectors.<sup>129</sup>

## Gender Mainstreaming

Following the Beijing Conference the EU has progressively committed itself to protecting and promoting gender equality and women's rights across the world. While both the *Treaty of Rome (1957)* and the *Treaty of Maastricht (1992)* laid the basis for gender equality in the EU, both held gender matters limited to the area of employment.<sup>130</sup> The *Treaty of Amsterdam (1997)* declared eliminating gender inequalities a goal for all of the European Community through gender mainstreaming. Gender mainstreaming is granted with the success in changing

<sup>128</sup> Evaluation Unit of the Directorate-General for International Cooperation and Development, "Evaluation of EU Support to Gender Equality and Women's Empowerment in Partner Countries."22.

<sup>129</sup> Ibid. 72.

<sup>130</sup> Gracia Vara Arribas and Laura Carrasco, "Gender Equality and the EU - An Assessment of the Current Issues," *EIPASCOPE* 1(2003).23.

the way in which women are portrayed in all external and internal policies. Gender mainstreaming is widely defined as,

“(re)organisation, improvement, development and evaluation of policy processes, so that a gender equality perspective is incorporated in all policies at all levels and at all stages, by the actors normally involved in policy-making.”<sup>131</sup>

This definition implies that gender equality is vital for all common policies with the ultimate aim of “transform(ing) gender relations in the direction of gender equality.”<sup>132</sup> Thereby requiring discriminatory gender norms, structures, and practises in a society to change has given light to gender mainstreaming being regarded as a transformative approach.<sup>133</sup> This transformative potential of gender mainstreaming targets entrenched societal and cultural norms that prevent women from fulfilling their true capabilities. In this sense it is a complete social reconstruction. Mahapatro emphasises the key to placing gender within all of these levels is for women’s perspectives to be included in the design and implementation of both economic and social policies.<sup>134</sup> Naila Kabeer adds to this thinking, stating that gender mainstreaming should ultimately facilitate women in developing countries to “question, analyse and act on the structures of patriarchal constraint in their lives.”<sup>135</sup> Therefore gender mainstreaming assists and enforces a rights-based approach to development, by empowering women to make their own choices and decisions regarding their lives and freedom. However, as suggested changing norms and practises that are at the root of gender inequality is not a straightforward process. Gender mainstreaming is complex and requires a continuous and sustainable process, hence gender

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<sup>131</sup> Council of Europe, "Gender Mainstreaming: Conceptual Framework, Methodology and Presentation of Good Practises," (Strasbourg, France 1998). 18.

<sup>132</sup> Ibid.

<sup>133</sup> Petra Debusscher, "Mainstreaming Gender in European Union Development Policy in the European Neighborhood," *Journal of Women, Politics & Policy* 33, no. 4 (2012). 324.

<sup>134</sup> Meerambika Mahapatro, "Mainstreaming Gender: Shift from Advocacy to Policy," *Vision: The Journal of Business Perspective* 18, no. 4 (2014). 314.

<sup>135</sup> Naila Kabeer, "Gender Equality and Women's Empowerment: A Critical Analysis of the Third Millennium Development Goal," *Gender and Development* 13, no. 1 (2005). 15.

mainstreaming proposes to introduce “gender sensitivity at all level of the policy process.”<sup>136</sup>

The gender mainstreaming approach implements the GAD paradigm. The EU firmly believes that sustainable development will not be achieved without gender equality and the social and economic empowerment of women.<sup>137</sup>

Women play vital roles within society and not until all women are empowered with the freedom to live their lives as they choose and fulfil their potential and contribute to a more fair society, will sustainable development succeed. This is why the Commission is committed to breaking the cycle of gender discrimination through supporting partner countries in establishing an environment in which women’s and girls’ rights are promoted, protected and fulfilled. The 2005 *European Development Consensus* committed the EU to including a strong gender component in all its practises and policy strategies with developing countries.<sup>138</sup>

*The Cotonou Agreement (2000)* serves as the current framework for relations between the EU and the ACP countries. Cotonou was a huge step in the right direction for the EU as it formally prescribed gender mainstreaming. However critical analysis of the inclusion of gender in EU-ACP relations identifies that the EU’s commitment to gender equality and gender mainstreaming in development cooperation is limited to paper and dialogue. Arts highlights the EU’s overall lack of follow through and implementation of gender mainstreaming practise in ACP-EU relations.<sup>139</sup> Arts criticises that despite the Cotonou Agreement being a “groundbreaker” and “phenomenal commitment” to mainstreaming gender in development cooperation, weaknesses of the agreement include lack of resources, complex and inefficient European Commission procedures, lack of

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<sup>136</sup> Andrea Krizsán and Violetta Zentai, "GENDER EQUALITY POLICY OR GENDER MAINSTREAMING?," *Policy Studies* 27, no. 2 (2006). 136.

<sup>137</sup> European Commission, "Commission Staff Working Document Strategic engagement for gender equality 2016-2019 SWD(2015) 278 final," (Brussels2015).10.

<sup>138</sup> Michel, "The European Consensus on Development." 16.

<sup>139</sup> Karin Arts, "Gender in ACP-EU Relations: The Cotonou Agreement," in *New pathways in international development: gender and civil society in EU policy*, ed. Marjorie Lister and Maurizio Carbone (Burlington, VT;Aldershot, Hants, England;: Ashgate Pub, 2006).37.

gender disaggregated data and information as well as limited monitoring and evaluation procedures.<sup>140</sup>

An example of Cotonou's weakness can be witnessed in the evaluation of the EU's cooperation and partnership relations with the Pacific region during 2006 and 2012.<sup>141</sup> The evaluation highlighted that despite the EU encouraging integration of cross-cutting issues in its regional strategy and programming of the Pacific Plan, "integration of cross-cutting issues at project level remain limited, [with] particular concerns being raised regarding gender equality."<sup>142</sup> This is supported by the findings of the Mid-Term Review of the 10<sup>th</sup> EDF covering the period 2008-2013 which claimed that while gender mainstreaming was being applied throughout regional programming, it was not "yielding a sufficient focus on gender equality."<sup>143</sup>

### **EU's Gender Action Plan (GAP)**

In an attempt to step up efforts and their commitment in achieving MDG number three and overall sustainable gender equality, the EU adopted its first Gender Action Plan (GAP) in 2010.<sup>144</sup> Upon its adoption, GAP was hailed as an incredible milestone in the EU's commitment to gender equality and women empowerment however fell massively short of expectations. The Action Plan proposed activities to be undertaken by both Member States and the Commission towards gender equality in development cooperation and dialogue with third countries. Greater gender equality mainstreaming was a crucial component highlighted as a specific objective alongside "strengthening EU support to partner countries in gender-based violence and all forms of discrimination against women and girls."<sup>145</sup> However good intentions aside, progress remained very slow on issues such as

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<sup>140</sup> Ibid.

<sup>141</sup> "Evaluation of the European Union's cooperation with the Pacific Region 2006-2012: Final report," (2014).

<sup>142</sup> Ibid.55.

<sup>143</sup> Ibid. 59.

<sup>144</sup> Council of the European Union, "Council Conclusions on the Millenium Development Goals for the United Nations High-Level Plenary Meeting in New York and Beyond," ed. General Secretariat (Brussels2010). Annex to the Annex.

<sup>145</sup> Ibid.19.

gender analysis, monitoring (indicators) and financial tracking.<sup>146</sup> O'Connell suggests three critical shortcomings in the EU's GAP policy and approach: one being the lack of importance given to recognising or responding to the structural systems underlying gender inequality; secondly O'Connell highlights how the EU fails to acknowledge how gender inequalities intersect with other inequalities; and finally she criticises the *2012 Strategic Framework and Action Plan on Human Rights and Democracy*, for not recognising the impact of gender inequality on women's and girls' human rights.<sup>147</sup> The point this research is most concerned with is the EU's inaction in addressing the structural bases of gender inequality.

Without addressing the root causes of gender inequalities within communities, regions and nations, all development efforts including policies, projects and programmes will continue to be undermined by deeply embedded social norms, cultural values and attitudes. Sustainable development will not and cannot be achieved by development interventions if existing unequal gender power relations are not addressed.<sup>148</sup> For example, while it is important to have women's safe houses/refuges available for all victims of domestic violence this provision is not sufficient. Victims firstly need to be aware and understand their rights in order to seek redress and support as well as be respected and protected within the justice system. The wider community also needs to hold high regard for all human rights including the rights of women and girls. In the final report on the implementation of the GAP, the European Commission addressed this issue emphasising the need to recognise and acknowledge that country context needs to "inform the appropriate entry point for gender equality work"<sup>149</sup> in future EU policy.

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<sup>146</sup> European Commission, "2014 Report on the Implementation of the EU Plan of Action on Gender Equality and Women's Empowerment in Development (2010-2015)," (Brussels 2015).2.

<sup>147</sup> Helen O'Connell, "More of the same, or radical change? Options for the successor to the EU's Gender Action Plan 2010-2015," (ODI, 2014). 13.

<sup>148</sup> Ibid.13.

<sup>149</sup> European Commission, "2014 Report on the Implementation of the EU Plan of Action on Gender Equality and Women's Empowerment in Development (2010-2015)."51.

## 2016-2020

The new *EU Gender Action Plan for the period of 2016-2020* stresses the lessons learned from the previous GAP have ultimately shaped a refreshed approach that reaffirms the EU's commitment to gender equality by striving to place the empowerment of women and girls at the heart of its external action.<sup>150</sup> The European Council released its conclusions shortly after welcoming the contribution of the new Staff Working Document, stating that the GAP offers a "way forward for the EU external relations to more effectively deliver on their commitments to gender equality...and an opportunity to highlight the transversal role of gender equality."<sup>151</sup> The GAP aims to transform the lives of women and girls through four pivotal areas.

The first is through ensuring women's and girls physical and psychological integrity followed by the promotion of economic and social empowerment. The third area is aimed at strengthening the voices and participation of women and girls – addressing a previous criticism of GAP. The fourth and final area rather than being thematic is horizontal, focusing on transforming the EU's institutional culture in which all elements of EU external action foster and support gender equality.

This final development is crucial, as the weakness of the EU's delivery of the original GAP was highlighted in the 2015 evaluation as being "primarily institutional."<sup>152</sup> O'Connell argues that this will be the deciding factor in closing the gap between the EU's commitments to gender equality and human rights and its practise.<sup>153</sup> For the EU to transform policy into practise, lessons need to be learned and implemented from the poor implementation of the previous action plan caused by lack of political and operational commitment at management

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<sup>150</sup> "Joint Staff Working Document Gender Equality and Womens Empowerment: Transforming the lives of women through EU external relations 2016-2020."4.

<sup>151</sup> Council of the European Union, "Council Conclusions on the Gender Action Plan 2016-2020," ed. General Secretariat of the Council (Brussels2015).6.

<sup>152</sup> Evaluation Unit of the Directorate-General for International Cooperation and Development, "Evaluation of EU Support to Gender Equality and Women's Empowerment in Partner Countries."98.

<sup>153</sup> Helen O'Connell, "The European Union's new Gender Action Plan 2016-2020," (ODI, 2015).5.

level, little financial resources as well as general lack of knowledge and expertise on gender mainstreaming.<sup>154</sup> If the EU intends to uphold its image as a global power for good by helping to build a world founded on the respect for human rights and stability, it needs to truly apply these principles at all levels of its external policies. And in doing so, fully implement the GAP and acknowledge the necessity of gender mainstreaming. The EU should not lose sight of the true meaning of development being all people.

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<sup>154</sup> Helene Debaisieux, "The EU Gender Action Plan - political commitment or business as usual?," (CONCORD 2015). Accessed 1 September, 2016. <http://concordeurope.org/2015/08/25/the-eu-gender-action-plan-political-commitment-or-business-as-usual/>

### 3. Culture and Women's Rights in Melanesia

#### CEDAW

The Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) was adopted by the UN General Assembly in 1979 and entered into force in 1981. The Convention is often regarded as the international bill of rights for women, designed to eliminate any and all kinds of discrimination against women. While there were treaties that protected both the civil and political rights as well as social, cultural and economic rights of all individuals regardless of gender, it was argued that these treaties were ineffective at protecting the rights of women. It was claimed that the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) did not address the *de facto* discrimination faced by women, despite obligations of State parties to guarantee the codified rights and freedoms to both men and women.<sup>155</sup> Of all the international human rights instruments, CEDAW is probably the most profound<sup>156</sup> with 188 states out of 194 having ratified the convention.<sup>157</sup> All Pacific countries and territories have signed and ratified CEDAW except for Tonga, whose ratification is currently pending at the time of writing.<sup>158</sup>

CEDAW emphasises a vision of gender equality between men and women and explicitly forbids gender discrimination by providing an obligation for State parties to adopt "all appropriate measures...to ensure the full development and

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<sup>155</sup> A. Nora, "The convention on the elimination of all forms of discrimination against women (CEDAW): With reference to violence against women and trafficking in women," *Journal of Applied Sciences Research* 7(2011). 2326.

<sup>156</sup> John Cantius Mubangizi, "An assessment of the constitutional, legislative and judicial measures against harmful cultural practices that violate sexual and reproductive rights of women in South Africa," *Journal of International Women's Studies* 16, no. 3 (2015). 163.

<sup>157</sup> Dubravka Šimonović, "Global and Regional Standards on Violence Against Women: The Evolution and Synergy of the CEDAW and Istanbul Conventions," *Human Rights Quarterly* 36, no. 3 (2014). 591. "Chapter IV Human Rights, 8 Convention on the Elimination of all forms of Discrimination Against Women." *United Nations Treaty Collection*, accessed 10 June 2015, [https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtldsg\\_no=IV-8&chapter=4&lang=en](https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtldsg_no=IV-8&chapter=4&lang=en)

<sup>158</sup> Anonymous, "Tonga govt puts CEDAW ratification on hold," in *Radio New Zealand International* (<http://www.radionz.co.nz/international/pacific-news/275195/tonga-govt-puts-cedaw-ratification-on-hold>, 2015).



advancement of women.”<sup>159</sup> This is however not at the sacrifice of culture. CEDAW does recognise the importance of culture for human life claiming protection for women from discrimination in all aspects of their cultural life.<sup>160</sup> This means that women have equal rights alongside men to participate, develop and interpret cultural norms and practises. The original convention did not include the issue of violence against women, most likely because it was not recognised as an issue at the time of preparation. However it has since gained momentum within the global community as an inexcusable violation of women’s rights. Thus in 1992, the CEDAW Committee adopted General Recommendation No. 19. This recommendation is considered one of the most significant as it clarifies the relationship between discrimination against women and gender-based violence against women as well as explaining the obligation of State parties to act.<sup>161</sup> The Recommendation defined gender-based violence as “violence that is directed against a woman because she is a woman, or violence that affects women disproportionately. It includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty.”<sup>162</sup> Furthermore the Committee stated:

Gender-based violence, which impairs or nullifies the enjoyment by women of human rights and fundamental freedoms under general international law or under human rights conventions, is discrimination within the Article 1 of the Convention. These rights and freedoms include: the right to life; the right not to be subject to torture or to cruel, inhuman, or degrading treatment or punishment; the right to liberty and security of person etc.<sup>163</sup>

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<sup>159</sup> "Convention on the Elimination of All Forms of Discrimination Against Women," in *G.A. Res. 34/180, UN. GAOR, 34th Sess., UN Doc. A/34/46* (1980). Art.3.

<sup>160</sup> *Ibid.*

<sup>161</sup> Šimonović, "Global and Regional Standards on Violence Against Women: The Evolution and Synergy of the CEDAW and Istanbul Conventions."601.

<sup>162</sup> "CEDAW General Recommendations No. 19, adopted at the Eleventh Session, 1992 (contained in Document A/47/38)," (UN Committee on the Elimination of Discrimination Against Women (CEDAW), 1992).

<sup>163</sup> *Ibid.* Article 7.

Therefore CEDAW established the state responsible for violations of human rights by any organisation, enterprise or individual, unless a state has undertaken certain measures of prevention, punishment and the provision of protective legislation and services. In the fight against gender inequality, the distinction between public and private spheres has proven detrimental to women's human rights.<sup>164</sup> CEDAW not only protects women's rights in the public sphere but more importantly for the issue of violence against women CEDAW extends to protect women in the private sphere including in the family. In the *VK v Bulgaria* case taken to the CEDAW Committee in 2008, the de facto enjoyment of legal protections against domestic violence was highlighted. The case focused primarily on the refusal of a protection order by domestic courts, to which the Committee warned against such restrictive understandings of the CEDAW text.

The Committee emphasized that gender-based violence includes actual and threatened physical and non-physical violence, coercion and other deprivations of liberty; a direct and immediate threat to the life or health of a victim is not necessary.<sup>165</sup> As State Parties to CEDAW, they are obligated under international law to measures in place to prevent and protect women and their right to all freedoms and liberties in all aspects of life. Non-governmental organisations can utilise CEDAW in efforts to eradicate violence against women by holding governments accountable for their proclaimed commitment to women's rights. Despite numerous programmes and services available to women through CEDAW via NGOs on the ground, the rights language is not easily translated to the lives of many indigenous women.

## **What CEDAW means for Melanesia**

All Melanesian countries have respectively ratified CEDAW with zero reservations. Despite this the status of women and girls remains low, with violence against women continuing to be unacceptably high. The human rights

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<sup>164</sup> Simone Cusack and Lisa Pusey, "CEDAW and the rights to non-discrimination and equality," *Melbourne Journal of International Law* 14, no. 1 (2013).62.

<sup>165</sup> "VK vs Bulgaria UN Doc CEDAW/C/49/D/20/2008," ed. Committee on the Elimination of Discrimination against Women (2011). Section 9.8.

movement requires states adherence to international treaties and conventions whilst it also requires a bottom-up approach in victim advocacy for these rights. Merry identifies the problem of the women's movement is persuading victims to take on a rights-defined self.<sup>166</sup> Raising awareness and empowering women and vulnerable minorities to take on a rights-defined self will warrant human rights intervention. Ignatieff and Gutmann state that a traditional, religious or patriarchal society perceived as being backward by Western standards does not permit human rights intervention, rather it is the standards of those it oppresses.<sup>167</sup> Therefore the warrant for intervention stems from the demands of the victims, or in the language of rights, the rights holders. Raising the awareness of rights within developing societies protects the powerless and oppressed while still contributing to a stable community still based on its foundational grounds of tradition, culture and religion.

**Table 2 Ratifications of Human Rights Treaties by Melanesia<sup>168</sup>**

<b>Ratifications of Human Rights Treaties in Melanesia, 2016</b>					
	<b>Fiji</b>	<b>Vanuatu</b>	<b>Solomon Islands</b>	<b>New Caledonia (via France)</b>	<b>Papua New Guinea</b>
International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)	A 1973		A 1982	A1971	A 1982
International Covenant on Civil and Political Rights (ICCPR)		A 2008		A 1983	A 2008
International Covenant on Economic, Social and Cultural Rights (ICESCR)			A 1982	A 1980	A 2008
International Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)	A 1995	A 1995	A 2002	A 1983	A 1995
International Convention against All Forms of Torture and Other Cruel, Inhuman and Degrading Treatment (CAT)	A 2016	A 2011		A 1986	
International Convention on the Rights of the Child (CRC)	A 1993	A 1993	A 1995	A 1990	A 1993
International Convention on the Rights of Persons with Disabilities (CRPD)	S 2010	A 2008	S 2008	A 2010	A 2013
Optional Protocol to the Convention on the Elimination of all Forms of Discrimination against Women (OP-CEDAW)		A 2007	A 2002	A 2000	

A brief overview of the core international human rights treaties ratified in the Melanesian region (table 2), indicates that the coverage of core treaties is widespread. Although all human rights are interchangeable with each other and

<sup>166</sup> Sally Engle Merry, "Rights Talk and the Experience of Law: Implementing Women's Human Rights to Protection from Violence," *Human Rights Quarterly* [H.W.Wilson - SSA] 25, no. 2 (2003). 344.

<sup>167</sup> Michael Ignatieff and Amy Gutmann, *Human rights as politics and idolatry* (Princeton, N.J: Princeton University Press, 2001). 76-77.

<sup>168</sup> Data collected from website United Nations Human Rights Office of the High Commissioner, Status of ratification interactive dashboard, accessed August 13, 2016. <http://indicators.ohchr.org/>

all are important in advancing gender equality and empowering women, I have also included the Optional Protocol to CEDAW seeing as though this study has a focus on gender-based violence. States are internationally obligated as parties to these agreements to protect, respect and fulfil the human rights of every citizen including women. However it is the implementation and enforcement of these treaties that matters on the ground. Ratifications in now way guarantee human rights are being protected as it is dependent on states resources and capacity to attend human rights whilst also heavily dependent on the willingness of states. It is also significant to highlight that Fiji has not signed nor ratified two of the core treaties namely the ICCPR and ICESCR respectively, which is worrying as many human rights of Fijian citizens are not protected by international law.

In a study on battered women in the locality of Hawaii conducted by anthropologist Sally Engle Merry, it was discovered that women were unable to internalise their right to a life free of violence.<sup>169</sup> The majority of normative messages received by women in their everyday life, suggests women are not rights holders and therefore violence is accepted in their everyday lives. The new norms or human rights contradict with everything the women had learned to be right. Merry suggests that while the new norm is codified in law and promoted in judicial institutions, women are left confused, unsure of what is right and thus naturally reside with their traditional way of knowing and refrain from pursuing their rights.<sup>170</sup> For those living in Western societies ruled monotonously by law this may appear inconsistent, however as Zwingel explains, these women are “basically trying to survive according to all the other, not rights-based rules that shape their lives much more powerfully than the law does.”<sup>171</sup> Tradition, custom and culture play a significant role in how many women in developing countries live and how they perceive the world around them. This is why the capabilities approach is favourable by this study over other development conceptual frameworks. By applying the capabilities framework to the situation of women in

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<sup>169</sup> Sally Engle Merry, *Human Rights and Gender Violence: translating International law into local justice*, Chicago Series in Law and Society (University of Chicago Press, 2006).

<sup>170</sup> Susanne Zwingel, "How Do Norms Travel? Theorizing International Women's Rights in Transnational Perspective," *International Studies Quarterly* 56, no. 1 (2012). 122.

<sup>171</sup> Ibid. 122.

the Pacific region and ultimately to women in all societies around the world, we can identify and analyse what women are actually able to do and be. Focussing on the rights and capabilities of women in societies has the potential to highlight the realities of their available freedoms within different cultural contexts. Culture and tradition is not to blame for acts of violence and discrimination against women, however it does tolerate it. Therefore it is vital for outsiders, particularly donor agencies, to have an awareness and understanding of the value of culture in these societies in order to accurately assess the development of women on the ground.

## What is Culture?

Until recently cultures have been viewed as “closed, static, homogenous systems,”<sup>172</sup> which produce individuals that act on cultural perspectives and values. This approach has since been heavily critiqued as it is argued that it exaggerates the impact of culture, stereotypes individuals and further entrenches culture into the norms and patterns of the world.<sup>173</sup> By comparison contemporary anthropological theory views culture as a process rather than a thing, insisting that cultural knowledge and institutions are part of open and fluid dynamic systems.<sup>174</sup> Lindstrom and White define culture in anthropological terms as “a system of more-or-less shared, more-or-less conscious, knowledge and understanding by which people organise how they live together.”<sup>175</sup> From this definition, it can be understood that no one can live without culture therefore every individual lives a cultured life. However while it is impossible to

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<sup>172</sup> Laurence J. Kirmayer, "Culture and Context in Human Rights," in *Mental Health and Human Rights*, ed. D. Silove and F. Gale M. Dudley (Oxford University Press, 2008). 4. Sally Engle Merry, "Constructing a Global Law-Violence against Women and the Human Rights System," *Law & Social Inquiry* 28, no. 4 (2003). 946.

<sup>173</sup> See, M. Freeman, "Anthropology and the Democratisation of Human Rights," *The International Journal of Human Rights* 6, no. 3 (2002); Ann-Belinda S. Preis, "Human Rights as Cultural Practice: An Anthropological Critique," *Human Rights Quarterly* 18, no. 2 (1996). Richard O. Clemmer, "Anthropology, the indigenous and human rights: Which billiard balls matter most?," *Anthropological Theory* 14, no. 1 (2014).

<sup>174</sup> Adam Kuper, *Culture: the anthropologists' account* (Cambridge, Mass: Harvard University Press, 1999).

<sup>175</sup> Lamont Lindstrom and Geoffrey M. White, "Cultural Policy: An Introduction," in *Culture, kastom, tradition: developing cultural policy in Melanesia*, ed. Lamont Lindstrom and Geoffrey M. White (Suva, Fiji: Institute of Pacific Studies, University of the South Pacific, 1994). 3.

lose one's culture, Lindstrom and White highlight the ability for one's culture to change as a result of various influences.<sup>176</sup> Thus, rather than blaming failure of gender equality on intractable patriarchal culture, culture needs to be viewed from another angle. As culture is fundamental to an individual's person, it is crucial for culture to be involved in the development process. Merry highlights committee members and non-governmental organisation representatives, who recognise the importance of using culture to promote transformations within stereotypical frameworks of family, marriage and gender.<sup>177</sup> While the State plays a prominent role in initiating the international human rights framework and upholding international human rights treaties and conventions, bottom up approaches anchored in local cultures and traditions are more likely to succeed.<sup>178</sup> Leading us to the conclusion that while cultures can adapt to change; they can also contribute towards that change, thus shaping it in accordance with certain significant cultural values and beliefs.

Local ownership of development initiatives is highly significant in overcoming arguments of Western superiority and imposition, by incorporating rights language in a cultural context. The concept of the stereotype organises the world within the mind of the viewer and thus helps to frame an individual's perception.<sup>179</sup> Stereotypes simplify society in a way that is easy to understand. Cultural stereotypes have the similar effects as racial stereotypes, in that individuals are placed within boxes of society. Justifying human rights abuses on the terms of culture and the age-old argument of "this is how it's always been therefore there is no problem" introduces cultural stereotypes, which challenge progress and development and thus reinforces gender equality issues such as gender-based violence. Culture needs to be understood on all levels as a constantly changing fluidity.

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<sup>176</sup> Ibid. 3.

<sup>177</sup> Merry, "Constructing a Global Law-Violence against Women and the Human Rights System." 947.

<sup>178</sup> Florence Butegwa, "Mediating Culture and Human Rights in favour of Land Rights for Women in Africa: A Framework for Community-Level Action," in *Cultural transformation and human rights in Africa*, ed. 'Abd Allāh Aḥmad Na'im (New York; London: Zed Books, 2002). 108-125.

<sup>179</sup> Walter Lippmann, *Public opinion* (New York Macmillan, 1927). 81.

The stereotypical male role in Pacific society is one of superiority to women. This stereotype has been embedded within Pacific culture over generations and has thus become the norm.<sup>180</sup> However this does not mean to say that just because it is does not mean it should be. Albuquerque sums culture up perfectly, describing it as an 'adaptation device'.<sup>181</sup> Culture is ever evolving with history and is constantly being influenced by both internal and external forces. An example of this in Pasifika culture is the introduction of Christianity and religion as a result of colonialism. Before colonialism took over in the Pacific, religion played no role however has today become a defining factor in Pacific culture. The roles of women and men in the Pacific have the ability to change, to create a more equal society and thus allow development to further flourish. Gender equality is linked to the process of development and therefore a prerequisite for its success. It is also important to recognise that within a culture there are multiple social identities. Thereby resulting in a culture's ability to change and adapt to influences from other outsider cultures as well as members from within the group. It is evident that besides the distinguishing perspective of cultures, there is an over arching human culture that consists of values held by all human beings. Together with accepting and viewing the world as a place in which we as human beings all are entitled to equality of dignity, is a prerequisite for intercultural understanding and ultimately peace.<sup>182</sup>

## **Universal Rights or Relative?**

The human rights system links back to the foundation of the United Nations in 1945, in which human rights are central to the Charter as well as the Universal Declaration of Human Rights.<sup>183</sup> Throughout its history the human rights movement has been plagued by allegations, that Western influence is

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<sup>180</sup> Interview Participant 1, recorded on Wednesday, 24 August 2016 in Suva, Fiji. Interview Participant 5, recorded on Monday 29 August, 2016 in Suva, Fiji. Interview Participant 4, recorded on Friday 26 August, 2016 in Suva, Fiji.

<sup>181</sup> Albuquerque, "Interculturalism, bioethics perspectives, and human rights." 85.

<sup>182</sup> Hugh Starkey, "Intercultural Understanding and Human Rights Education: Where are we now and where are we heading for?," in *Intercultural Understanding and Human Rights Education in the Era of Globalization* (South Korea: Asia-Pacific Centre of Education for International Understanding, 2006). 61.

<sup>183</sup> "Human Rights." *United Nations*, accessed 22 February, 2017  
<http://www.un.org/en/sections/priorities/human-rights/>

responsible for the way in which human rights are defined and understood. The existence of the international human rights system which has been agreed to and ratified by most nations including the Pacific region, failed to recognise the significance of the various economic, political, social and cultural character of the world. Debate has since ensued over whether the universality of human rights is yet another attempt by the West to exert power over the other cultures of the world.<sup>184</sup> Its proponents, universalists and cultural relativists, highlight this argument. Universalists argue that international human rights must be the same everywhere regardless of cultural context. In contrast, cultural relativism promotes the idea that every culture has their own individual values and ethics and therefore the application of universal rights with little recognition for cultural context “diminishes the cultural identity.”<sup>185</sup>

Germany’s success in establishing racial purity laws demonstrated the disastrous effects cultural relativism could have on humanity by allowing one country/culture to determine its own values.<sup>186</sup> On the contrary, relativists argue that the prescribed universality of rights override one’s right to culture. However as has been previously emphasised, cultures are “immensely malleable.”<sup>187</sup> Therefore the argument based on that simply because a value or practise emerged in one culture, it cannot be applied in another is false. While all cultures will have defining and individualist practises and beliefs that differ greatly to the next, there is no reason why a culture cannot adapt and incorporate differing and foreign values. Preis argues that in order to define and understand the complicated relationship between human rights and culture, there needs to be a reconceptualization of the notion of culture itself.<sup>188</sup> Culture needs to be mobilised in the fight for women’s rights. Culture is an essential aspect of human life as it forms the foundations of an individuals identity and thus “can empower

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<sup>184</sup> HURIGHTS OSAKA, "Human Rights and Cultural Values: A Literature Review," (Asia-Pacific Human Rights Information Center, 1997).

<sup>185</sup> Elisabeth Reichert, "Human Rights: An Examination of Universalism and Cultural Relativism," *Journal of Comparative Social Welfare* 22, no. 1 (2006). 24.

<sup>186</sup> Ibid. 26.

<sup>187</sup> Jack Donnelly, "The Relative Universality of Human Rights," *Human Rights Quarterly* 29, no. 2 (2007). 291.

<sup>188</sup> Preis, "Human Rights as Cultural Practice: An Anthropological Critique." 310.



individuals to become full human beings.”<sup>189</sup> However while the right to culture is an integral aspect of the well being and development of an individual, it cannot be at the detriment of women’s human rights as guaranteed under the CEDAW Convention. It is acknowledged in various international human rights instruments that there is without doubt a right to live according to one’s cultural traditions and beliefs provided that these rights only exist that the human rights of others and/or women are not restricted or violated.<sup>190</sup>

Human rights in the developing world may be difficult for developing societies to comprehend as they are sourced from the values and norms from Western culture. Therefore by seeking human rights protection an individual may be perceived as a traitor to their culture in favour of Western values. However an individual may not necessarily agree with Western values, rather “what they seek is protection of their rights as individuals within their own culture.”<sup>191</sup> Despite human rights being often perceived as a Western construct, they reflect values which are found in many cultures around the world including in the Pacific.

In implementing a development programme or project, especially in regards to women’s rights and empowerment, an agency must consider whether or not they are imposing their vision of a ‘good life’ that often resonates with their own (Western principles and values), rather than with “the social norms that define the interests of the recipients.”<sup>192</sup> In order for development intervention to be accepted within a community and to ultimately achieve embedded social change, development agencies must take a close look at their own motives and objectives. In local and cultural communities, culture provides individuals with

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<sup>189</sup> Riki Holtmaat and Jonneke M. M. Naber, *Women’s human rights and culture: from deadlock to dialogue* (Cambridge, England; Portland, Or: Intersentia, 2011).33.

<sup>190</sup> See Declaration on the Elimination of Violence Against Women (Article 4), CEDAW (Article 5), Vienna Declaration (para. 5), Universal Declaration of Human Rights (Article 29 (3)), European Convention on Human Rights (Article 9), International Convention on Civil and Political Rights (Article 18).

<sup>191</sup> Ignatieff and Gutmann, *Human rights as politics and idolatry*. 76.

<sup>192</sup> Jonathan Ensor, "Linking rights and culture - implications for rights-based approaches," in *Reinventing development?: translating rights-based approaches from theory into practice*, ed. Paul Gready and Jonathan Ensor (New York; London: Zed Books, 2005). 256.

“emotional security and personal strength”<sup>193</sup> and contributes to creating an overall identity. This aspect of culture needs to be harnessed by donor agencies and organisations on the ground together with moving the discussion surrounding development into public spaces in order to promote and encourage a more inclusive approach rather than just arguing against Western concepts. In the large scheme of things it is the people of all genders, beliefs and cultures who are at the heart of development. Both donors or recipients should not disregard this in development negotiations.

### **Human Rights and the Pacific**

Human rights present a challenge to Pacific peoples as universal human rights standards are not sourced from their culture or custom rather, Western values. Herein the problem, of which when there is any perception of a forced decision between universalism (human rights and the West) and religion or culture, a wedge is created between so-called Western and non-Western states.<sup>194</sup> Nayak argues that as a result, the wedge distracts from the complex gender issues at hand and foregoes multiple possibilities to challenge gender discrimination and oppression.<sup>195</sup> The assertion of human rights as universal rights would imply that human rights are to be respected throughout all cultures. Human rights protection has the goal of integrating human rights within cultures however this is often criticized as being an unattainable goal with the intent to destruct culture.<sup>196</sup> Wickliffe recommends that in order to bridge the gap between international human rights and the Pacific, a Pacific Charter of Human Rights would reflect the Pacific reality while also providing a forum that would incorporate evolving human rights with Pacific philosophical and cultural traditions.<sup>197</sup>

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<sup>193</sup> W. Kymlicka, "Liberalism, Individualism and Minority Rights," in *Law and the Community*, ed. A.C Hutchinson and L.J.M Green (Toronto: Carswell, 1989). 193.

<sup>194</sup> Meghana Nayak, "The false choice between universalism and religion/culture," *Politics and Gender* 9, no. 1 (2013). 123-4.

<sup>195</sup> Ibid. 124.

<sup>196</sup> Ignatieff and Gutmann, *Human rights as politics and idolatry*. 21.

<sup>197</sup> Wickliffe, "An Overview of human Rights Developments in the Pacific Region with an Emphasis on the Collective Right to Self Determination." 170.

If human rights are to be respected and upheld in the Pacific Island Countries and Territories (PICTs), the local people and the communities must lead the initiative. Jalal warns in regards to the adoption of a regional Pacific Human Rights Commission, that if “this initiative is seen to be driven by outsiders, not matter how well intentioned or sensitive to Pacific Islanders and their concerns, the initiative will fail.”<sup>198</sup> The promotion and protection of human rights within the Pacific region should start from the bottom in order for sustainable development to take effect. It also needs to be of an inclusive nature, ensuring that all people regardless of age, gender, ethnicity, religion and level in society can raise their voice and openly engage in the development process alongside civil society and international donors.

It is arguable that Pacific people should develop their own understanding of human rights in line with universal rights and thus make their own contribution. The protection and promotion of human rights is a global issue. Problems within the description of human rights including gender-based violence and gender equality, are issues faced by the entire global community. It makes sense for Pacific countries to cooperate with other countries as well as the global community in order to respond to regional and global problems. As a developing region, the Pacific can gain on the ideas and solutions the developed world is using to tackle similar issues. Nonetheless as Renshaw et al. argue, national identities must be maintained whilst addressing common concerns.<sup>199</sup> Pacific scholar Konai Helu Thaman considers that by building rights on Pacific heritage, Pacific peoples may “see(ing) the law as belonging to them rather than something imposed from outside.”<sup>200</sup>

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<sup>198</sup> P I Jalal, "Why Do We Need A Pacific Regional Human Rights Commission?," *Victoria University of Wellington Law Review* 40(2009). 181.

<sup>199</sup> Andrew Byrnes and Andrea Durbach Catherine Renshaw, "Implementing Human Rights in the Pacific Through National Human Rights Institutions: The Experience of Fiji," *Victoria University of Wellington Law Review* 40(2009). 254.

<sup>200</sup> Konai Helu Thaman, "Cultural Rights: A personal perspective," in *Culture, Rights and Cultural Rights: Perspectives from the South Pacific*, ed. Margaret Wilson and Paul Hunt (Wellington, New Zealand: Huia Publishers, 2000).4.

## **Custom, Religion and Postcolonialism**

Post colonialism, custom and customary law and religion heavily influence Pacific understandings of human rights. The Pacific is an incredibly diverse region, with more than 800 indigenous languages in Papua New Guinea alone. This cultural diversity needs to be taken into consideration throughout the development process. In order to achieve gender equality and eliminate gender-based violence as well as narrow the divide between Pacific culture and human rights, it is vital to understand the Pacific perspective. For intercultural and/or cross cultural dialogue to flourish, development donors need to have a sound knowledge and understanding of Pacific people and their belief and value systems. This understanding cannot be acquired in a short period of time and therefore it is crucial to develop an intercultural awareness. Meaning that donors must be aware of the impact cultural differences have on the implementation of development projects and relationships with partner countries and civil societies. Moreover, donors need to use this knowledge to guide and support their development efforts including the creation, implementation and evaluation of strategies. Similarly, in conducting this research it is vital to understand the diverse cultural context in order to draw sound policy recommendations and conclusions.

While there is dispute over the traditional role of women, it is clear that the influences of colonialism, Christianity and custom together laid a foundation that favoured men over women. Structures such as new succession laws with absolutist rights that removed customary obligations, new chiefly structures as well as wage labour which was introduced in some societies all contributed to the lowering of the status of women.<sup>201</sup> In pre-colonial times customs were the norms or the rules within the group, community or village. They function in similar regard to law that performs within a nation. Therefore despite not having

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<sup>201</sup> New Zealand Law Commission, "Converging Currents: Custom and Human Rights in the Pacific," (Wellington 2006).13.

state mechanisms such as legislations, police forces or courts, the pre-colonial Pacific did have functioning legal systems in place.<sup>202</sup>

Most Pacific countries have a constitutional document which acknowledges and formally recognises customary values, practises and institutions. In all of the constitutional preambles of the Melanesian region, traditional values and custom are declared as the foundation of national government.<sup>203</sup> Many also acknowledge custom as a source of law to varying extents in the formal system of each country. As a result custom and customary law are legitimised within all levels of the Pacific society, thereby posing a further challenge to women's rights and empowerment advocates. This also poses a difficult situation in that countries are faced with a plural legal system.<sup>204</sup> In Vanuatu, Papua New Guinea, Solomon Islands and New Caledonia customary law is recognised alongside common law. As New Caledonia remains a territory of France it is governed by the French Constitution. Choosing not to adopt a uniform policy on the populations of its overseas territories, France adopted specific measures for each community following considerations taken with their representatives.<sup>205</sup>

New Caledonia enjoys a special status under XIII of the French Constitution, which allows for the acknowledgment and inclusion of New Caledonian identity. The Organisation Act distributes power among local institutions and therefore saw Kanak customary law become officially recognised within legal system. There are three types of civil status recognised in New Caledonia: civil status under ordinary law, customary civil status (for Kanaks) and specific civil status (for Wallisians and Futunans).<sup>206</sup> New Caledonian citizens who are identified as Kanak are subject to customary law solely and exclusively in

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<sup>202</sup> Jean G. Zorn, "Custom Then and Now: The Challenging Melanesian Family," in *Passage of Change: Law, Society and Governance in the Pacific*, ed. Anita Jowitt and Dr Tess Newton Cain (Canberra: ANU E press, 2010).96.

<sup>203</sup> Jennifer Corrin Care, "The Status of Customary Law in Fiji Islands After the Constitutional Amendment Act 1997," *Journal of South Pacific Law* 4(2000).

<sup>204</sup> "A green stick or a fresh stick? Locating customary penalties in the post-colonial era?," *Oxford University Commonwealth Law Journal* 6, no. 1 (2006). 28.

<sup>205</sup> United Nations Human Rights Report, "International Covenant on Civil and Political Rights Fifth Periodic Report France," in *CCPR/C/FRA/5* (2013).

<sup>206</sup> United Nations Committee on the Elimination of Discrimination Against Women, "CEDAW/C/FRA/7-8/Add.1," (2014). 3.

respect of civil law. On the other hand, Fiji no longer formally recognises customary law as a general source of law within its constitution however this does not mean that it is no longer part of the law.

### **What is Custom?**

Custom is defined as what people of a particular cultural community habitually do while customary law is “what they consider they are bound to do or not do, because of the community values or for fear of some unwelcome consequence.”<sup>207</sup> Thereby customary law establishes an appropriate conduct accepted in Pacific society. Customary laws seldom were/are written, instead were/are embedded deep within the tradition, culture and religion of a community and governed all economic, political and social aspects of life. Customary law varies throughout the region.

In parts of Melanesia, and in certain circumstances, customary law takes precedence over all international and national laws, treaties and conventions. Due to the diversity of the region, customary law can also differ between villages. In some Pacific countries customary law can require an offender together with their family to seek and receive forgiveness from the family of the victim through both symbolic presentations and the offer of a formal apology.<sup>208</sup> This example is similar to the practise of restorative justice, which is an important mechanism in restoring relationships, especially in small communities such as in the Pacific.

However the use of this customary practise in cases involving rape and overall abuse of a woman it can be particularly problematic and harmful. For example, offenders can receive a lighter sentence. As a result, custom is reliant on being verbally passed down as oral traditions<sup>209</sup> through generations and thus, like culture, is a fluid and ever-changing concept. Custom in the Pacific today is thus an amalgamation of old and new ideas, values and practises demonstrating that

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<sup>207</sup> New Zealand Law Commission, "Converging Currents: Custom and Human Rights in the Pacific." 47.

<sup>208</sup> "Custom and Human Rights in the Pacific - Summary Document," (2006).9.

<sup>209</sup> Claire Slatter, "Gender and custom in the South Pacific," *Yearbook of New Zealand Jurisprudence* 13-14(2010). 91.

custom is “neither immutable nor static, but rather adaptive and dynamic.”<sup>210</sup> It is generally understood to describe traditional practises and indigenous ways of doing things.<sup>211</sup>

Moreover custom continues to play a dominant role in Melanesian society outside of the courts system, in particular for those living in rural areas. Customary beliefs, values and attitudes also tend to inform social organisation, power structures, and accepted normative standards.<sup>212</sup> Pacific people in rural areas have little, if not no, access to the outside world as a result of poor infrastructure and limited communication resources. Those brought up in these rural societies are therefore often confined to a traditional life lived by the generations before them. Thus despite the harmful nature and violation of national and international human rights laws, issues of gender inequalities continue to exist because they remain unchallenged and are not questioned within society. This leads to creating a society where violence against women in particular establishes an “aura of morality.”<sup>213</sup>

As a consequence of living within this environment new ideas and different spiritual values and principles are rarely pursued or explored, as people are content with living a life that is familiar.<sup>214</sup> In comparison, those Pacific Islanders who are brought up in both urban and peri-urban areas are more likely to have greater access to new information and ideas as a result of the social environment being more diverse. In rural communities the chief, traditional leaders and village elders continue to have a significant influence in all matters relating to their people.<sup>215</sup>

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<sup>210</sup> Ibid. 92.

<sup>211</sup> Miranda Forsyth, "Beyond Case Law: Kastom and Courts in Vanuatu," *Victoria University of Wellington Law Review* 35, no. 2 (2004). 429.

<sup>212</sup> Sue Farran, *Human Rights in the South Pacific: Challenges and Changes* (Routledge-Cavendish, 2008). 182.

<sup>213</sup> M. J. Maluleke, "Culture, Tradition, Custom, Law and Gender Equality," *Potchefstroom Electronic Law Journal* 15, no. 1 (2012). 2.

<sup>214</sup> Don Paterson, "New impulses in the interaction of law and religion: a South Pacific perspective," *Brigham Young University Law Review* 2003, no. 2 (2003). 618.

<sup>215</sup> Ibid. 619.

## The Ongoing Impacts of Colonisation

The colonisation of the Pacific region continues to have residing effects in Pacific culture in regards to human and women's rights and consequently impacts on gender equality and overall development. For most of its history Melanesia is described as comprising a "shifting patchwork of relatively autonomous, small-scale, kinship-based societies"<sup>216</sup> due to the varying cultural communities. Contact with the outside world also varied widely. Most of the former colonies and territories gained independence from the early 1970s. Dinnen states that together with modern transformations such as integrating into the international economy, this already diverse cultural landscape has become a "fragmented and rapidly changing environment."<sup>217</sup> Following independence the term the "Pacific Way" became a popular way to denote the Pacific region based broadly on shared political and social values.<sup>218</sup> The Pacific Way was indeed a celebration of independence and reaffirmed local and traditional culture. Independence allowed the countries of Melanesia to rediscover their identity and to once again assert and preserve traditions and custom. This renewed concern for custom was also part in response to increasing westernisation<sup>219</sup> however both pre-colonial and colonial pasts remain deeply embedded within the experiences of the present day in Melanesia.<sup>220</sup>

While colonialism is often equated with foreign domination and exploitation<sup>221</sup>, Slatter highlights the role it played in gender relations, stating that, "men increased their power and status vis-à-vis women under colonialism."<sup>222</sup> It is widely agreed upon that colonial administrations and missionaries were instrumental in confining women to the private sphere, thus removing them

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<sup>216</sup> Sinclair Dinnen, "Violence and Governance in Melanesia-an introduction," in *Reflections on violence in Melanesia*, ed. Sinclair Dinnen and Allison Ley (Annandale, NSW; Canberra, ACT;: Hawkins Press, 2000).5.

<sup>217</sup> Ibid. 5.

<sup>218</sup> Stephanie Lawson, *Postcolonialism, neo-colonialism and the "Pacific way": a critique of (un)critical approaches*, vol. 2010/4;2010/4.; (Canberra, A.C.T. U6 - eBook: Australian National University, ANU College of Asia and the Pacific, 2010).2.

<sup>219</sup> Forsyth, "Beyond Case Law: Kastom and Courts in Vanuatu."429.

<sup>220</sup> Dinnen, "Violence and Governance in Melanesia-an introduction."5.

<sup>221</sup> Slatter, "Gender and custom in the South Pacific." 97.

<sup>222</sup> Ibid. 97.



from their former respected roles of authority.<sup>223</sup> This was achieved through both wage labour and cash-cropping while women were assigned the burden of subsistence food production in addition to domestic responsibilities. Thus men became the breadwinners as neither of the roles designated for women were remunerated nor did they hold much social esteem.

An example of colonialism having an impact on gender after the colonisation of the region was the evolution of brideprice in some Melanesian societies.

Brideprice originally intended on uniting and stabilising two persons and their families together however with increasing outside influences, the previous mutual exchange of gifts and promises gave way to a one-way cash transaction. Zorn highlights this emphasis on money as transforming the role of women and significantly lowering their status.<sup>224</sup> Henry Bre, chaplain in the disciplinary force of Papua New Guinea in Western Highlands Province, agrees that from the perspective of the groom's family (who pays the brideprice), some of the woman's rights and privileges are withdrawn.<sup>225</sup> Rather than women being perceived as being the key between the two families, women are commodified as objects, whose work and childbearing capacities have been purchased. Thus women were no longer viewed as equals, rather as objects under ownership by their husbands and his family. In addition, colonisation has had a lasting impact on Pacific Island countries in the form of out-dated legislative frameworks, which were introduced by imperial powers.<sup>226</sup>

## Religion

Oppressive religious beliefs are among the biggest barriers in overcoming violence against women in the Pacific region. Religion and culture are almost interchangeable in that religion supports and reinforces cultural and customary

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<sup>223</sup> Elise B. Huffer, "Desk Review of the Factors Which Enable and Constrain the Advancement of Women's Political Representation " in *A Woman's Place is in the House - the House of Parliament: Research to advance women's political representation in Forum Island Countries* (Suva, Fiji: 2006). 32.

<sup>224</sup> Zorn, "Custom Then and Now: The Challenging Melanesian Family." 107.

<sup>225</sup> Henry Bre, "The Real Cost of Bride Price," *Melanesian Journal of Theology* 22, no. 2 (2006).15.

<sup>226</sup> Forster and Jivan, "Challenging conventions : in pursuit of greater legislative compliance with CEDAW in the Pacific." 678.

beliefs and vice versa. In small community-minded and isolated societies which are brought up in faith alongside tradition, it can be somewhat understood as to how embedded discriminatory norms against women have survived and continue to thrive. Religion was brought to the Pacific by European colonialists to bring order and control to the region and to this day remains deeply rooted in Pacific island culture. Pre-colonialism, the Pacific people were perceived to be primitive savages by those in the West and therefore justified their colonial quest for domination. Thus, early missionaries recognised the importance of gaining the acceptance and support from local chiefs and traditional leaders for the success of their missions, which was then later utilised by colonial administration.<sup>227</sup>

The introduction of Christianity as a part of their mission, dispelled some gender disparities whilst at the same time engendered a more intimate and private violence within the women's own homes. Missionaries advocated Christianity as being essentially patriarchal as well as promoted a social organisation in which the husband was the head of the family while both wives and daughters were expected to be "modest, obedient and subservient."<sup>228</sup> Conversion to Catholicism entailed the end of men's houses and forced the women and men to live under the same roof as a 'nuclear family', similar to that of women and men in the Western world. However this was interpreted by men in the Pacific, as their divine right to exert a "daily and punitive control over the household, asserting their rights as 'head' of the family as enshrined in Catholic doctrine."<sup>229</sup> The Bible is used frequently to justify the patriarchal power of the husband and father as the head of the family with Christ as the head of the church, thus legitimising the violent disciplining of women, whether they be wives, sisters or daughters.<sup>230</sup> Furthermore, inappropriate interpretations of the bible ensure women remain in the roles they have been subjected to.<sup>231</sup> Farran states that today the Church

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<sup>227</sup> Farran, *Human Rights in the South Pacific: Challenges and Changes*. 207.

<sup>228</sup> Ibid. 182.

<sup>229</sup> Jolly, "Introduction-Engendering Violence in Papua New Guinea: Persons, Power and Perilous Transformations." 16.

<sup>230</sup> Ibid.16.

<sup>231</sup> Shamima Ali, "Religion Hinders Fight Against Violence," ed. Daniela Maoata-Cox (Radio New Zealand, 2016).

leadership in the region is ambivalent about gender equality. While some churches do recognise the importance of women's rights especially in regards to domestic violence, others find it difficult to condemn violence as well as advocate obedience and commitment to the institution of marriage.<sup>232</sup> In a way religion supports and justifies gendered roles and the corresponding gender inequalities and violence within Pacific custom. Together this union of religion and cultural values "results in a powerful doctrine of submission,"<sup>233</sup> which remains a constant barrier for all human rights as well as women's rights advocates.

## **Women's Rights in Patriarchal Societies**

In their study on the relationship between human rights and custom the New Zealand Law Commission noted that Pacific custom law is based not on rules and regulations as in a typical Western society, rather based on values.<sup>234</sup> Violence against women is not a cultural norm in Pacific Island societies, however custom can be blamed for tolerating it.<sup>235</sup> Gender inequalities continue to persist as a result of cultural barriers which prevent women from understanding and protecting their rights. Custom in terms of women's rights within the Pacific can be perceived two ways – on the one hand, a view of custom as a symbol of patriarchal power, used by men of authority to keep women in subordination; or on the other hand it can be perceived as authoritative and of women's rights advocates corrupt from Western thought and values.<sup>236</sup> Traditional custom has a tendency to take precedence over women's rights.<sup>237</sup> Melanesia is a strong patriarchal society in which women's roles are limited to the family. It is argued

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<http://www.radionz.co.nz/international/programmes/datelinepacific/audio/201812557/religion-hinders-fight-against-violence>

<sup>232</sup> Farran, *Human Rights in the South Pacific: Challenges and Changes*.

<sup>233</sup> Anna-Karina Hermkens, "Becoming Mary: Marian Devotion as a Solution to Gender-Based Violence in Urban PNG," in *Engendering Violence in Papua New Guinea*, ed. Christine Stewart and Carolyn Brewer Margaret Jolly (Canberra, Australia: ANU E Press, 2012).150.

<sup>234</sup> New Zealand Law Commission, "Converging Currents: Custom and Human Rights in the Pacific."48

<sup>235</sup> US Department of State, "Country Reports on Human Rights Practises-Samoa," ed. Bureau of Democracym Human Rights and Labor (2004). Accessed 11 August 2015.

<http://www.state.gov/j/drl/rls/hrrpt/2004/41658.htm>

<sup>236</sup> Slatter, "Gender and custom in the South Pacific." 98.

<sup>237</sup> Jenta Tau, "Violence Against Women in the Pacific," (Women Leading Change, 2011). Accessed 29 November, 2015. <https://womenleadingchange.wordpress.com/2011/05/24/violence-against-women-in-the-pacific/>

that while Melanesia lends itself to a gender-differentiated society with men assigned public roles and women confined to the private domestic sphere, that women are not subordinated or viewed as occupying an inferior status.<sup>238</sup> However this view does not take women's capabilities into consideration. Pacific understandings of human rights and more importantly women's rights are heavily influenced by gendered roles and domains of responsibility.<sup>239</sup> However, similar to culture, custom is adaptable with history. It is a common misconception that customary law is culturally bounded and unambiguous.<sup>240</sup> Proponents of custom, generally those who have something to gain<sup>241</sup> argue that custom is immutable: that because something was perceived as normal before, it must continue. This is a severe distortion of custom and the reason as to why women continue to be subordinated within Pacific society. The most graphic example of how adaptive custom has been was the adoption of Christianity which has been described as itself becoming custom.<sup>242</sup> Custom and customary law are continuously being debated in all sectors and at all levels, having aspects ranging from political and economic to legal and social. Customary law and its controversial interrelationship with human rights is a topic that this research wishes to address.

It must be made clear that this research is not opposed to custom or the existence of custom courts. This research respects the traditions and customary ways of Pacific people and communities. However, the idea that custom, like culture, is static and unchanging, or absolute and eternally fixed, is rejected. Custom defines the people of the Pacific. It defines Pacific identity, faith and values. Overtime custom has adapted to both Westernisation and globalisation yet has remained resilient in representing an essential part of the Pacific. It may

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<sup>238</sup> Paul Sillitoe, *Social change in Melanesia: development and history* (Cambridge;New York;: Cambridge University Press, 2000). 101.

<sup>239</sup> Nic Mason Peggy Fairbairn-Dunlop, Elizabeth Reid & Marilyn Waring, "Pacific Gender and Aid Effectiveness Case Study Report," ed. New Zealand Agency for International Development (NZAID) and Australian Agency for International Development (AusAID) (2009).22.

<sup>240</sup> Zwingel, "How Do Norms Travel? Theorizing International Women's Rights in Transnational Perspective." 122.

<sup>241</sup> Helen Aikman QC, "Is custom conservative? If so, is it a strength or weakness," in *Yearbook of New Zealand Jurisprudence Tuhonohono: Custom and State*, ed. Dr Richard A Benton (University of Waikato, 2011). 68.

<sup>242</sup> New Zealand Law Commission, "Converging Currents: Custom and Human Rights in the Pacific."56.

also appear that a right-based framework is downright opposed to custom, it could be argued that the core values at the heart of custom are identifiable with human rights. The challenge remains in identifying these values through intercultural dialogue, and applying them to development strategies.

### **The Importance of Interculturalism and Developing an Intercultural Awareness in Development**

Intercultural understanding is essential part of living in the increasingly globalising twenty-first century. The multitude of cultures, traditions, languages, religions and histories has made for an incredibly diverse world and as time goes on and the world gets smaller, these diversities are getting harder to ignore. By developing an intercultural awareness and understanding of the world we live in, people in all levels of society will have the ability to relate and communicate across cultures. Interculturalism has the ability to transcend the borders and boundaries emphasised by multiculturalism. Civilisations, societies and cultures are much like citizens and “exist in relation to one another.”<sup>243</sup> This gives light to intercultural theory which is popularly understood as the sharing, borrowing and exchanging of cultural entities.

Carl Weber captures this theory in his definition of interculturalism as “transactions between separate indigenous cultural systems when, either unilaterally or mutually, elements of one culture are accepted or adopted in the other culture.”<sup>244</sup> As a consequence of increasing globalisation civilisations are subconsciously interacting and influencing one another. This is particularly important in the development sphere and addressing human rights.

Cultural penetration and overlapping often goes unnoticed and so to the resulting “opposing social demands: respect for difference (culture; to sustain diversity), acknowledgement of *sameness* (international law of human rights; to

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<sup>243</sup> Scientific and Cultural Organisation (UNESCO) United Nations Educational, "Investing in Cultural Diversity and Intercultural Dialogue," (France: United Nations Educational Cultural and Scientific Organisation, 2009).39.

<sup>244</sup> Carl Weber, "AC/TC: Currents of Theatrical Exchange," *Performing Arts Journal* 11/12, no. 3-1 (1989).12.

re-establish normative authority)." <sup>245</sup> This interplay between valuing difference whilst striving for sameness is where issues arise and highlights the value of considering cultures and cultural values in development policy. Cultural diversity must be embraced in order to lay the foundation for interculturalism and intercultural dialogue. It is simply not enough to acknowledge difference, there must be also a common expectation. Considerable effort must be made on both sides to identify and inhibit a common ground in which true interaction can take place. Intercultural dialogue considers the commonalities and differences thereby focusing on processes of dialogue, interaction, negotiation and compromise. By ceasing to perceive others in fixed terms opens up a new world of understanding and empathy as well as an appreciation for a new realm of dialogue.

The concept of interculturalism has been thoroughly applied and analysed in the fields of education and professional communication. <sup>246</sup> Recent studies show that an intercultural environment in early childhood supports a bottom-up transmission of knowledge in which "authentic and meaningful exchanges of information about each person's individual experiences that transform all involved." <sup>247</sup> Hence rather than a top-down approach whereby teachers educate children about other cultures, interculturalism promotes sharing and learning across cultures. Through intercultural dialogue and activities in the classroom there is no 'expert' telling the class about a particular culture, students, teachers and parents are all on an equal standing and given the opportunity to learn from each other. <sup>248</sup> The study goes on to suggest that intercultural learning encourages the exploration of commonalities and differences. <sup>249</sup> Interculturalism acknowledges the impact of globalisation and increasing diversity in societies

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<sup>245</sup> Richard Falk, "Cultural Foundations for Protection of Human Rights," in *Human Rights in Cross-Cultural Perspectives: A Quest for Consensus*, ed. Abdullahi A. An-Na'im (US: University of Pennsylvania Press, 1992).46.

<sup>246</sup> See Jagdish S. Gundara, *Interculturalism, education and inclusion* (Thousand Oaks, Calif;London:: Paul Chapman Pub, 2000). Riitta Elina Jaatinen, "Promoting interculturalism in primary school children through the development of encountering skills: a case study in two Finnish schools," *Education 3-13* 43, no. 6 (2015).

<sup>247</sup> Leslie Ponciano and Ani Shabazian, "Interculturalism: Addressing Diversity in Early Childhood," *Dimensions of Early Childhood* 40, no. 1 (2012).23.

<sup>248</sup> Ibid.24.

<sup>249</sup> Ibid.

and that cross-cultural interaction is inevitable and necessary for building stability and peace. Interculturalism in education is obviously promoted in order for future generations to see culture as a foundation for communication rather than an obstacle. Interculturalism is also a concept familiar in terms of higher education as universities are fast becoming very international in nature, which have lead studies to question how their newfound cultural diversity is being addressed.<sup>250</sup>

## Human Rights in Intercultural Dialogue

Human rights in development dialogue needs to be approached through an intercultural standpoint. Interculturalism is slowly beginning to surpass its predecessor multiculturalism as the way in which societies should be organised and managed as the world's cultural environment becomes more diversified. Cantle highlights that multiculturalism has failed to develop with globalisation and diversity and instead has remained locked into the context of the 1960s and 1970s as a result.<sup>251</sup> Interculturalism addresses both globalisation and cultural diversity. What is more, as Jiang points out, is that interculturalism also refers to "a process that informs and provokes a deliberate reaction to the global environment."<sup>252</sup> It is crucial, as the world becomes smaller and more diverse, for different cultures and societies to be willing and able to interact on a variety of platforms. As a tool of interculturalism, intercultural dialogue is perceived as the solution to enabling societies "to live together peacefully and constructively in a multicultural world and to develop a sense of community and belonging."<sup>253</sup> It aims to encourage a mutual understanding in order to consolidate communities as well as "win over the sceptical."<sup>254</sup> The use of intercultural dialogue and communication is promoted in studies as encouraging a willingness

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<sup>250</sup> Xiaoping Jiang, "Why Interculturalisation? A neo - Marxist approach to accommodate cultural diversity in higher education," *Educational Philosophy and Theory* 43, no. 4 (2011).

<sup>251</sup> Ted Cantle, "Interculturalism: For the Era of Globalisation, Cohesion and Diversity," *Political Insight* 3, no. 3 (2012).38.

<sup>252</sup> Jiang, "Why Interculturalisation? A neo - Marxist approach to accommodate cultural diversity in higher education."387.

<sup>253</sup> "The Concept of Intercultural Dialogue," Council of Europe, accessed 6 October, 2016, [http://www.coe.int/t/dg4/intercultural/concept\\_EN.asp](http://www.coe.int/t/dg4/intercultural/concept_EN.asp)

<sup>254</sup> M. N. MacDonald and J. P. O'Regan, "The Ethics of Intercultural Communication," *EDUCATIONAL PHILOSOPHY AND THEORY* 45, no. 10 (2013).1006.

and openness between the self and other to work together toward a common goal. MacDonald and O'Regan renounce tolerance in intercultural communication, highlighting that tradition should never be used to justify any type of cultural practise.<sup>255</sup> Rather intercultural dialogue should "always be rigorously questioned, problematized and deconstructed."<sup>256</sup> It may seem somewhat contradictory to have both a mutual respect and zero tolerance for certain cultural practises. However having an intercultural awareness may assist in understanding the context of such beliefs and practises as well as understanding that all people irrelevant of culture, religion and beliefs are seeking to address their common human needs as best they can in that current and historical cultural context.<sup>257</sup>

There is no one culture, religion or societies that have the ideas and solutions to problems encountered through human existence. Marsella recognises the importance of culture as a tool for peace and reconciliation, stating that culture is often disregarded in negotiation and mediation practises by Western people.<sup>258</sup> Conflict and disagreement will of course occur and continue to occur as this is inevitable between different individuals, groups, organisations and nations. Conflicts will also arise between those within the same culture. In any disagreement it is important to consider and develop an understanding of the context and source as to where the opposing party is coming from. Marsella points out this does not translate as tolerance or acceptance of all differences rather "a willingness to acknowledge the differences and to find in them the options and possibilities for negotiation, resolution, and reconciliation."<sup>259</sup> Because after all as Salzman highlights it is possible to connect the 'new' to existing cultural and traditional systems, because it is "most likely that all cultures place high value on supporting and providing for one's family."<sup>260</sup>

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<sup>255</sup> Ibid.1016.

<sup>256</sup> Ibid.

<sup>257</sup> Michael B. Salzman, "Globalization, religious fundamentalism and the need for meaning," *International Journal of Intercultural Relations* 32, no. 4 (2008).326.

<sup>258</sup> Anthony J. Marsella, "Culture and conflict: Understanding, negotiating, and reconciling conflicting constructions of reality," *International Journal of Intercultural Relations* 29, no. 6 (2005).

<sup>259</sup> Ibid.671.

<sup>260</sup> Salzman, "Globalization, religious fundamentalism and the need for meaning."326.



While the scope of intercultural dialogue is limited, as it can only be instigated when both parties are open and willing to participate, this does not negate the obligation of democratic societies.<sup>261</sup> It is also important to recognise that parties who do commit to a dialogue despite not fully sharing similar values, only indicates a longer process of interaction, that may very well have a positive result in which the values of human rights and democracy are recognised and implemented in action. Manonelles emphasises that intercultural dialogue cannot be confined to dialogue and therefore argues to be effective and fulfil its potential, intercultural dialogue must be committed with a specific programme of action.<sup>262</sup> An example of interculturalism and intercultural policy is in the integration policies of the EU.<sup>263</sup> The EU has used and promotes the use of intercultural dialogue in reconciling and integrating the 28 member states and many more cultural groupings and languages. The EU in itself can be described as a “paradigm of intercultural dialogue and action.”<sup>264</sup> However the Union and the discourse of intercultural dialogue has been criticised for asserting and promoting cultural dominance.

### **Interculturalism within the EU**

One of the overarching criterias and objectives of interculturalism is equality and freedom from cultural dominance. It is sympathetic and respectful towards other cultures and cultural minorities and ensures a commitment to understanding all values, history and traditions. The European Commission’s integration framework and its intercultural approach have overtaken multiculturalism in the way society is organised and managed. In the *Council of Europe’s White Paper on Intercultural Dialogue* the EU is identifies multiculturalism as having “fostered communal segregation and mutual incomprehension, as well as having

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<sup>261</sup> Council of Europe, "White Paper on Intercultural Dialogue "Living Together as Equals in Dignity"." 17.

<sup>262</sup> Manuel Manonelles, "Civil Society Participation in Intercultural Dialogue," in *Intercultural dialogue and multi-level governance in Europe: a human rights based approach*, ed. Léonce Bekemans (New York: P.I.E. Peter Lang, 2012).417.

<sup>263</sup> See, European Commission “On a European Agenda for Culture in a Globalising World,” 2007, “White Paper on Education and Training,” 1995, Council of Europe, “White Paper on Intercultural Dialogue,”2008.

<sup>264</sup> Manonelles, "Civil Society Participation in Intercultural Dialogue."421.

contributed to the undermining of individuals..."<sup>265</sup> The White Paper also highlights the importance of working towards intercultural dialogue on the global stage. A recent European Parliament Resolution demonstrates the commitment of the EU to implementing intercultural dialogue in its external relations with partner countries and regions<sup>266</sup> calling on the Commission to mainstream intercultural dialogue in the EU development agenda.<sup>267</sup> However the Commission has been criticised for using intercultural dialogue as a "tool for exclusion"<sup>268</sup> whilst simultaneously performing its articulated purpose of building a bridge between cultures and people. Aman argues, that Eurocentric and colonial ideas continue to shape the operationalisation of the EU, which subsequently implicates any intercultural education or awareness.<sup>269</sup> He understands the intercultural dialogue of the EU to only function when both parties share the same cultural context. Likewise in the example of the province of Quebec in Canada, where an intercultural approach has been taken in managing diversity yet has been perceived as an "ethnocentric form of "super-culturalism"". <sup>270</sup> Eliadis argues that intercultural policy in the Quebec province has created a fertile ground in which minority rights including civil and political rights have suffered.<sup>271</sup> It can therefore be argued that intercultural policy has the potential to incite abuses of power as it can work in elevating the values of the majority culture.<sup>272</sup> This underlines the significance of maintaining a principle of reciprocity when undertaking a policy of interculturalism.

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<sup>265</sup> Council of Europe, "White Paper on Intercultural Dialogue "Living Together as Equals in Dignity". "19.

<sup>266</sup> European Parliament, "The Role of Intercultural Dialogue, Cultural Diversity and Education in promoting EU Fundamental Values (2015/2139(INI))," (Strasbourg2016). Article 42.

<sup>267</sup> Ibid. Article 33.

<sup>268</sup> Robert Aman, "The EU and the Recycling of Colonialism: Formation of Europeans through intercultural dialogue," *Educational Philosophy and Theory* 44, no. 9 (2012).1020.

<sup>269</sup> Ibid.1021.

<sup>270</sup> Pearl Eliadis, "Canada's Clash of Culturalisms," in *Human Rights and Diverse Societies: Challenges and Possibilities* ed. Francois Crepeau and Colleen Sheppard (Cambridge Scholars Publishing, 2013). 112.

<sup>271</sup> Ibid.110.

<sup>272</sup> Gérard Bouchard, "WHAT IS INTERCULTURALISM?," *McGill Law Journal* 56, no. 2 (2011).451.

## **Benefits of Interculturalism in Achieving Sustainable Development**

By taking on an intercultural awareness in analysing the effectiveness of EU rights-based approach towards issues surrounding gender-based violence, this research will be able to identify whether there has been an open and inclusive dialogue between the countries of Melanesia and the European Union.

Throughout its development policies the EU, as a donor, emphasises the importance of inclusion, participation and local ownership. An interculturalist lens to EU development programming in the Pacific can help to identify how cultural difference impacts the EU-Pacific relationship as well as identify the effectiveness of the programmes on the ground in achieving the overarching goal of gender equality. Lack of understanding and knowledge as well as empathy toward other cultures, values and traditions can have detrimental effects to relationships.

This research has presented interculturalism thus far as playing an important role in the fields of education and integration in our globalising world. This study recommends adopting interculturalism in development policy in order to contribute to sustainable global development. Bouchard emphasises that interculturalism is essentially a “sustained effort aimed at connecting majorities and minorities, continuity and diversity, identity and rights, reminders of the past and visions of the future.”<sup>273</sup> Bouchard’s work replaces ‘majorities and minorities’ with ‘developed and developing countries’ in order to conceptualise and justify interculturalism within the development sphere. Developed and developing countries should engage in intercultural dialogue in order to ensure values and culture are not compromised whilst simultaneously actively engaging the universal values of human rights, democracy and good governance.

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<sup>273</sup> Ibid.461.

## 4. Capabilities, Civil Society, Capacity and the GBV Question?

### The Importance of Civil Society in Melanesia

An empowered civil society is crucial to achieving sustainable development. Civil society organisations in the Pacific “represent a critical constituency and developing partner”<sup>274</sup> for advancing towards the Sustainable Development Goals and particularly in achieving gender equality and conquering gender-based violence in Melanesia. In a UNDP report, it was highlighted that ‘hard’ capacities such as infrastructure, technology and finances all of which are related to funding, are key capacities that need development in the Pacific.<sup>275</sup> The capacity of civil society needs to be a priority particularly in the case of gender-based violence in Melanesia. Attention should be brought to the root causes that lay at the crux of the issue, rather than solely concentrating on the symptoms. Such a task should be performed by local civil society with the support of external knowledge and resources as they have the local insight into such deep cultural and societal issues. Donor agencies and larger umbrella organisations need to foster and utilise the local expertise for better results on the ground. Civil society need to be allowed to be development agents in their own right through a collaborative relationship with donors and larger international NGOs.<sup>276</sup> Drabek suggests a list of factors for such a relationship, highlighting the importance of “understanding of each others’ political/economic/cultural contexts and of institutional constraints” as well as an “openness to learning from each other.”<sup>277</sup> Through a solid, mutual and intercultural relationship based on a two-way dialogue, donors will be able to simultaneously build the capacity of civil society whilst effectively implement a RBA towards achieving sustainable development.

Civil society occupies the middle ground between the State and the people and can include NGOs, social movements, religious institutions and trade unions.

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<sup>274</sup> United Nations Development Program, "A Capacity Assessment of CSOs in the Pacific: Six Country Profiles," (Fiji: UNDP Pacific Centre).1.

<sup>275</sup> "A Capacity Development Plan for CSOs in the Pacific," (Fiji: UNDP Pacific Centre, 2010).6.

<sup>276</sup> Anne Gordon Drabek, "Development alternatives: The challenge for NGOs—an overview of the issues," *World Development* 15(1987).10.

<sup>277</sup> Ibid.

While civil society and the State are independent, they are simultaneously interdependent as they interact closely while the environment for which they act is enabled by the state.<sup>278</sup> The term civil society has in recent times become increasingly used by media, politicians and in the general realm of governance, and has as a result many different meanings or definitions. However according to Hodgson, the core of discussions surrounding civil society centre around the idea of “a *realm* or *space* within which individuals associate with each other and engage in range of activities,”<sup>279</sup> of a political, social or cultural matter for the benefit of the greater good.

Consisting of diverse and autonomous organisations and groups, civil society can both support the state to meet expectations and obligations as well as challenge and lobby the state for change.<sup>280</sup> Effectively civil society is a voice for those in society who have none. Civil society plays a crucial role in stimulating participation, educating citizens, disseminating information and mobilising support, contributing to solutions of social conflict and to the monitoring of government action. It is also very important to note that civil society is not profit oriented. However while they offer a growing expertise and valuable contributions to influential policy areas, civil society is often not invited to engage in policy-making<sup>281</sup> due to issues of resourcing and time. International donors in development are increasingly recognising the importance of partnerships with civil society in the shift away from needs-based approach to a more people-centred and rights-based approach.

It is needless to say that in development, civil society and human rights go hand in hand. While civil society organisations advocate and champion for human

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<sup>278</sup> World Bank, "Civil society and peacebuilding: potential, limitations and critical factors," (Washington DC: World Bank, 2007).4.

<sup>279</sup> Lesley C. Hodgson, "HELPING THE SALMON: THE ROLE OF CIVIL SOCIETY IN THE DEVELOPMENT OF HUMAN RIGHTS," *Journal of the Institute of Justice and International Studies*, no. 5 (2005).12.

<sup>280</sup> Vesselin Popovski, "The role of civil society in global governance," in *Engaging civil society: emerging trends in democratic governance*, ed. G. Shabbir Cheema and Vesselin Popovski (New York;Tokyo;: United Nations University, 2010).26.

<sup>281</sup> Tony Burdon, "Oxfam and Ghana's National Education Campaign Coalition," in *Ownership and partnership: what role for civil society in poverty reduction strategies?*, ed. Ian Smillie and Henri-Bernard Solignac Lecomte (Paris: Development Centre of the Organisation for Economic Co-operation and Development, 2003).62.

rights instruments, the organisations themselves are built on principles of human rights<sup>282</sup>, namely the freedom of opinion and expression<sup>283</sup> and the freedom of peaceful assembly and association.<sup>284</sup> Though the Universal Declaration is not legally binding, these principles are enshrined within such legal instruments as the ICCPR. For human rights to be effective particularly in a development context they have to be translated through local frameworks and grounded within local contexts.<sup>285</sup> Therefore the civil society involvement is essential in the RBA to development process in order to reframe human rights engagement so it is well-received and accepted by both the public sector and the state. Unnithan and Heitmeyer describe civil society organisations (CSOs) as “moral agents...negotiating between their perceived responsibility towards the community, their responsibility towards their organisation and their own understandings and aspirations for justice.”<sup>286</sup>

The EU in particular, has stated its engagement with civil society as crucial in its external relations as demonstrated in a recent communication (2012).<sup>287</sup> The EU speaks highly of the role civil society plays in development and their “capacity to reach out to, empower, represent and defend vulnerable and socially excluded groups, and trigger social innovation.”<sup>288</sup> The Communication therefore labels one of its priorities for EU support as to increase the capacity of local civil society “to perform their roles as independent development actors more effectively.”<sup>289</sup> This study looks deeper into this relationship between the EU and the capacity of local civil society in Melanesian societies in order to gain an understanding of the potential impact of a EU RBA and identify the gap between policy and action.

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<sup>282</sup> Hodgson, "HELPING THE SALMON: THE ROLE OF CIVIL SOCIETY IN THE DEVELOPMENT OF HUMAN RIGHTS."13.

<sup>283</sup> "Universal Declaration of Human Rights", United Nations, accessed 23 December, 2016. <http://www.un.org/en/universal-declaration-human-rights/index.html> Article 19.

<sup>284</sup> Ibid. Article 20.

<sup>285</sup> Merry, *Human Rights and Gender Violence: translating International law into local justice*.

<sup>286</sup> Maya Unnithan and Carolyn Heitmeyer, "Challenges in 'Translating' Human Rights: Perceptions and Practices of Civil Society Actors in Western India," *Development and Change* 45, no. 6 (2014).1363.

<sup>287</sup> European Commission, "Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions; The roots of democracy and sustainable development: Europe's engagement with civil society in external relations," (2012).

<sup>288</sup> Ibid.3.

<sup>289</sup> Ibid.4.

## The Capability Approach as a Measurement of Development

Development is a loaded term that can be interpreted in a variety of ways, dependent on an individual's view on life. Definitions of development can vary from meaning material prosperity or to complete something that is unfinished. Some understand development as a form of neo-colonialism and therefore despise the concept while others see it as liberation from oppression. There are many meanings and understandings however for the purpose of this study on the EU's rights based approach to development cooperation, development in this context is centred on the lives and wellbeing of people. With this in mind it is therefore appropriate to frame development within the capabilities approach, which ensures development is about "removing the obstacles to what a person can do in life."<sup>290</sup> This shifts the focus toward the realisation and growth of human capabilities and capacities or "the empowerment or freedom of the individual."<sup>291</sup> For too long development has been analysed in an economic context with a narrow focus on the annual growth of income per capita ignoring the correlating effects of this growth on the quality of people's lives.<sup>292</sup> Focussing too narrowly on income overlooks the real ends of development. Sanchez highlights that despite income being a significant aspect of development, it is only important as a means to what intrinsically matters, the freedom and opportunity for all people to do what they want and be whom they want to be.<sup>293</sup> Nussbaum and Sen emphasise the need for capabilities to be applied in public policy and planning.

This approach examines development with people in mind and is therefore relevant in all countries. Capability therefore refers to a person or groups

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<sup>290</sup> Fukuda-Parr, "The human development paradigm: operationalizing Sen's ideas on capabilities."305.

<sup>291</sup> David Chandler, "'Human-Centred' Development? Rethinking 'Freedom' and 'Agency' in Discourses of International Development," *Millennium - Journal of International Studies* 42, no. 1 (2013).4.

<sup>292</sup> Sabine Alkire; Ariana Proochista; Susan Johnson; Arif Naveed; Randy Spence,, *Introduction to the Human Development and Capability Approach* (Earthscan, 2009). 13.

<sup>293</sup> Alejandro Agudo Sanchiz, "Opportunities for the Poor, Co-responsibilities for Women: Female Capabilities and Vulnerability in Human Development Policy and Practise," *Journal of Human Development and Capabilities* 11, no. 4 (2010).538.

freedom to achieve valuable functionings.<sup>294</sup> Sen criticises evaluations of development that focus exclusively on utilities, resources or income.<sup>295</sup> He argues that a utility-based evaluation hides the realities of poverty and gender equality alike. Moreover these evaluations report misleading information and comparisons which can potentially allow the world to believe certain societies, groups and individuals are in fact not in states of suffering or despair. Robeyns stresses that a utilitarian evaluation of well-being development will only assess the satisfaction, therefore an individual living in a desperate situation may be content with life as they might know no different.<sup>296</sup> As a result there will be little, if any, differentiation between a person who is happy, healthy and well-sheltered and an equally happy but unhealthy and badly sheltered person who has mentally adapted and accepted the situation. This encourages conclusions that lead to the popular belief that because an individual or a group has seemingly accepted their situation, as the way things may be, that that's the way it should remain.

The capabilities approach goes beyond "what the poor have"<sup>297</sup>, giving us the ability to assess the processes or conversion factors in which people mobilise in order to live. This effectively enables us to identify and understand an individual's circumstance in which they are living including non-material aspects such as social norms that influence their effective choice. Stiglitz et al, highlight that the choice of capabilities and functionings is a value judgment rather than a prescribed universal set yet there is a consensus that quality of life depends on health and education, housing and employment, political participation, living environment as well as factors shaping their personal and economic security.<sup>298</sup>

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<sup>294</sup> Alkire, "Why the Capability Approach?"121.

<sup>295</sup> Amartya Sen, *Development as freedom*, vol. 1st. (New York: Knopf, 1999); *Inequality reexamined*; "Gender Inequality and Theories of Justice," in *Women, Culture and Development: A study of human capabilities*, ed. Martha Nussbaum and Jonathan Glover (Oxford: Clarendon Press, 1995).

<sup>296</sup> Robeyns, "SEN'S CAPABILITY APPROACH AND GENDER INEQUALITY: SELECTING RELEVANT CAPABILITIES."63.

<sup>297</sup> Caroline O. N. Moser, "The Asset Vulnerability Framework: Reassessing Urban Poverty Reduction Strategies," *World Development* 26, no. 1 (1998).1.

<sup>298</sup> Joseph E. Stiglitz, *Mismeasuring our lives: why GDP doesnt add up*.



Based on these valued capability sets, the large task of securing capabilities belongs with the government.<sup>299</sup>

Governments' overarching role within a nation is to "secure for citizens a comprehensive set of necessary conditions for a life worthy of dignity."<sup>300</sup> Thus capabilities "constitute a social policy goal that should be pursued for by each and every person."<sup>301</sup> Every human is born with ability to lead a dignified life however these abilities need to be supported first and foremost by those in power, the government. Governments support and influence societal structures which in turn "shape individual resources, agency and achievements."<sup>302</sup>

These structures define the borders within which civil society and non-governmental organisations can act to enhance the power and agency of individuals as well as simultaneously shaping the interests of individuals. Following on from this these, capabilities need to be supported by families and institutions throughout a person's life. Once a person is equipped with the capability set, it is then up to the individual to decide on how to select the function in question. Therefore it is important to note here, that the political goal in particular is capability, not the actual functioning. By providing all human beings with full and meaningful choice, they are given the opportunity of their own value. The government is essentially enhancing an individual's choice by providing opportunity.<sup>303</sup> What the capabilities approach aims to capture is the huge distinction between what an individual can achieve and what they are actually able to achieve. An example that highlights this distinction is the difference between starving and fasting.

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<sup>299</sup> Martha Nussbaum, "Capabilities, Entitlements, Rights: Supplementation and Critique," *Journal of human Development and capabilities* 12, no. 1 (2011).28.

<sup>300</sup> "Constitutions and capabilities: "perception" against lofty formalism," *Harvard Law Review* 121, no. 1 (2007).11.

<sup>301</sup> Sanchiz, "Opportunities for the Poor, Co-responsibilities for Women: Female Capabilities and Vulnerability in Human Development Policy and Practise."538.

<sup>302</sup> Kabeer, "Resources, Agency, Achievements: Reflections on the Measurement of Women's Empowerment."461.

<sup>303</sup> Sen, "Capability and Well-Being."

## Capabilities and Nussbaum – Constructing a Theory of Social Justice

Drawing on Sen's framework, Martha Nussbaum attempts to transform the approach into a theory of social justice by creating a list of ten central capabilities.<sup>304</sup> Her version of the approach specifies a list of the ten of the most important capabilities necessary for a life with dignity that both governments and institutions can act on. She describes the list as comprising of the ten central capabilities that governments must secure at least a threshold level to all citizens:

1. Life
2. Bodily Health
3. Bodily Integrity
4. Senses, Imagination and Thought
5. Emotions
6. Practical Reason
7. Affiliation
8. Other Species
9. Play
10. Control Over One's Environment
  - a. Political
  - b. Material

Capabilities are simply parts of humanness, and go to say that a life without this item would be too impoverishing to live a good human life.<sup>305</sup> Nussbaum claims that all capabilities on the list are of central importance and therefore need to be secured and protected. For example, one cannot be sacrificed for the sake of increasing another. Her list of the ten central human capabilities have drawn

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<sup>304</sup> Martha Nussbaum, *Creating capabilities: the human development approach* (Cambridge, Mass: Belknap Press of Harvard University Press, 2011).19.

<sup>305</sup> "Human Capabilities, Female Human Beings," in *Women, Culture, and Development: A Study of Human Capabilities*, ed. Martha Nussbaum and Jonathan Glover (Oxford: Clarendon Press, 1995).80.

criticism from proponents of cultural relativism, who argue Nussbaum's universalist and 'essentialist' views disregard difference – both between men and women and groups of women – as well as overlook norms and values within local contexts.<sup>306</sup> However she has stressed that the list remains open-ended and accessible to amendments and deletions. While the list compiled is normative, it remains deliberately general to allow people to interpret and shape it in the context of their own beliefs and values. Nussbaum is also quick to point out that each capability on the list should be open to deliberation and contestation within different nations and societies in order to make the process as democratic as possible.<sup>307</sup> Nussbaum's list was written with the underlying assumption that there are "central elements of truly human functioning that can command a broad cross-cultural consensus."<sup>308</sup> Hugman supports Nussbaum, stating that any particular capability can vary between both people and cultures yet remain necessary for a general human life and therefore a potential for everyone.<sup>309</sup> Furthermore this includes taking a nation's own histories and special circumstances into account. Wolf points out that while she agrees with Nussbaum's position, her list is dangerously close to promoting cultural imperialism, noting that how can anyone be in a position to list criteria for a good form of life.<sup>310</sup> Nussbaum is sensitive to this concern and explicitly notes that her account is 'tentative and open-ended'<sup>311</sup> and therefore remains open to ideas and critique that come from engaging in encounters with other human societies. Moreover the list does not require individuals to pursue all elements in terms of functionings (beings and doings), rather all individuals should have the capability for doing so and therefore can choose whether or not to utilise the elements.

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<sup>306</sup> Ibid.63.

<sup>307</sup> "Capabilities as Fundamental Entitlements: Sen and Social Justice," *Feminist Economics* 9, no. 2-3 (2003).42.

<sup>308</sup> *Women and human development: the capabilities approach* (New York: Cambridge University Press, 2000).74.

<sup>309</sup> Richard Hugman, "Nussbaum's Capabilities Approach: Its impact on theory and practise in social development," in *The Capability Approach: Development Practise and Public Policy in the Asia-Pacific Region*, ed. Francesca Panzironi and Katharine Gelber (London; New York: Routledge, 2012).26.

<sup>310</sup> Susan Wolf, "Martha C. Nussbaum: Human Capabilities, Female Human Beings," in *Women, Culture, and Development: A Study of Human Capabilities*, ed. Martha Nussbaum and Jonathan Glover (Oxford: Clarendon Press, 1995).108.

<sup>311</sup> Nussbaum, "Human Capabilities, Female Human Beings."74.

Despite her critics, Hugman highlights that what Nussbaum does achieve, is the necessity to question social arrangements that prevent both individuals and groups from fulfilling a “flourishing human life in their own context.”<sup>312</sup> This is the crux of this research and the crux of gender equality worldwide. Just because it is, does not mean it has to be, therefore it is vital to question and to identify societal norms and values that negatively impede on an individuals right to live.

## **Gender and Capabilities**

The Capabilities Approach expressed by both Sen and Nussbaum takes a firm stand on basing development policy on the human functioning capabilities framework, which holds a particular advantage for the most oppressed groups in developing societies. It is hence evident that the approach has enormous potential to address feminist concerns and questions seeing as though the women’s movement focuses on many issues not reducible to financial welfare, such as reproductive rights, voting rights, domestic violence and women’s social status.<sup>313</sup> Sen claims the comparison and measurement of functionings and capabilities rather than just the means (resources and primary goods) gives a better understanding and portrays the wider picture and harsh realities of gender inequality.<sup>314</sup> He criticises a utilitarian approach for the measurement of well-being in regards to women, arguing that the measurement in terms of utilities fails to capture the extent of inequalities faced by women as women frequently exhibit “adaptive preferences”<sup>315</sup>, preferences that have adjusted to their second-class status. Fundamental entitlements should be considered when addressing social justice and in particular gender inequalities. Nussbaum further stresses the need for these entitlements to be independent from the preferences women happen to have, those that are often shaped by prejudiced living

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<sup>312</sup> Hugman, "Nussbaum's Capabilities Approach: Its impact on theory and practise in social development."35.

<sup>313</sup> Robeyns, "SEN'S CAPABILITY APPROACH AND GENDER INEQUALITY: SELECTING RELEVANT CAPABILITIES."62.

<sup>314</sup> Sen, *Inequality reexamined*. 125.

<sup>315</sup> "Gender Inequality and Theories of Justice."

conditions.<sup>316</sup> Throughout the world women are more often than not looked upon as passive dependents, particularly in development frameworks.

Nussbaum proposes a universalist framework to assess the quality of women's life. In doing so she admits to facing three respectable arguments; the argument of culture, the argument from the good of diversity and the argument of paternalism.<sup>317</sup> Nussbaum notes the diversity of the world and highlights her respect for women who choose to live traditional life. She stresses that despite women appearing satisfied with their position in their culture further probing is needed into their real satisfactions and therefore urges applying a universalist critique to unjust cultural practises.<sup>318</sup>

As stated previously, cultures are generally dynamic and open to contestation. In her argument from the good of diversity, Nussbaum is for the provision of spaces in which "valuably different forms of human activity can flourish."<sup>319</sup> Stamping out diversity is an absurd concept and goes against the nature of humanity. However in light of the fact some traditional and customary practises are degrading and both physically and mentally harmful to minorities within a culture forces diversity to be monitored. Nussbaum argues that those practises of which are evil should not be tolerated or accepted within societies and therefore have no right to be preserved.

## **Capabilities in Understanding Gender Inequality**

This leads to the argument surrounding women living in patriarchal and traditional societies. The liberty to choose is an essential part of the freedom to culture and religion as well as to the autonomy of the individual.<sup>320</sup> As a result of both women and girls across generations knowing a life no different have accustomed to a culture that subordinates them to men and therefore firmly believe they lead a happy and normal life. Annas points out that in societies in

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<sup>316</sup> Nussbaum, "Capabilities as Fundamental Entitlements: Sen and Social Justice."34.

<sup>317</sup> *Women and human development: the capabilities approach.*

<sup>318</sup> Ibid.59.

<sup>319</sup> Ibid.59.

<sup>320</sup> Holtmaat and Naber, *Women's human rights and culture: from deadlock to dialogue.*100.

which more options and overall freedom are available to men rather than women, it is a common strategy for women to adjust their preferences and desires so it is in line with what they realistically expect.<sup>321</sup> Furthermore some use the argument that the individual women involved agree with their treatment as well as exercise particular practises themselves. Therefore it would seem, if one examined the desires of women in these societies, that these women would be happier than women who are informed and are able to utilise their full capabilities to function. This leads to some insisting that outsiders should not interfere with their happiness, despite their blatant oppression and violation of their human rights. It could even be argued as a violation of a women's cultural rights. Who are we as outsiders or more specifically as feminists, to challenge "entrenched satisfactions"<sup>322</sup> in traditional and customary societies and insist on universal standards for women's preferences and desires?

While it is indeed valid for an individual to choose to accept and participate in certain customary or traditional practises and beliefs, it is crucial to recognise that silence does not express consent.<sup>323</sup> Women may also have difficulty recognising themselves as citizens of the law and thus deserving of holding rights. They have long been lead to believe that only men alone are entitled to such basic human goods and rights. Holtmaat and Naber stress that this lifelong socialisation together with an absence of information makes it difficult for individuals to change their attitudes and preferences from what they already perceive as 'natural'.<sup>324</sup> Therefore it is vital for capabilities to be examined and analysed in order to gain an accurate representation of the well-being of individuals, especially in the cases of minority groups such as women. Utilitarian preference-based approaches as a basis for a measurement of well-being and social choice have no reflection on the unjust situations many people in both developed and developing countries find themselves in.

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<sup>321</sup> Julia Annas, "Women and the Quality of Life: Two Norms or One?," in *The Quality of Life*, ed. Martha Nussbaum and Amartya Sen (Oxford: Clarendon Press, 1993).282.

<sup>322</sup> Nussbaum, *Women and human development: the capabilities approach*.114.

<sup>323</sup> Holtmaat and Naber, *Women's human rights and culture: from deadlock to dialogue*.101.

<sup>324</sup> Ibid.

## Capabilities and United Nations Human Development Reports

The Capabilities Approach has annually informed the United Nations Human Development Reports drawing on Sen's theory, that economics only represents a small aspect of development and emphasising the importance of human development. The first annual Human Development Report reflects Sen's thinking, emphasising that development is about enlarging peoples' choices. The opening paragraphs state that the development process should, "create a conducive environment for people, individually and collectively, to develop their full potential and to have a reasonable chance of leading productive and creative lives in accord with their needs and interests."<sup>325</sup> In effect this has also helped the distinct development paradigm of the human development approach, which informs policy choices in many areas.<sup>326</sup>

The UNDP reports have a strong influence on policy and continue to do so. The reports reflect human beings as being an ends to development and have used capabilities to analyse a considerable range of topics. The reports have also made way for the Human Development Index (HDI) and related indices of gender and poverty that have a particular focus of examining a minimally basic quality of life.<sup>327</sup>

Similar to Nussbaum's list of capabilities, the HDI identifies also a minimal listing of capabilities. However contrary to Nussbaum, Sen is not convinced by the insistence of a canonical list of important capabilities defined by theorists and academics.<sup>328</sup> This denies public participation and reasoning into what should be included on the list and why. Sen has refused to fill in all the gaps, leaving it up to the public and in particular those who are directly engaged in a specific society

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<sup>325</sup> United Nations Development Program, "Human Development Report 1990: The concept and measurement of human development," (New York: UNDP, 1990).1.

<sup>326</sup> Fukuda-Parr, "The human development paradigm: operationalizing Sen's ideas on capabilities."302.

<sup>327</sup> Amartya Sen, "Human Rights and Capabilities," *Journal of Human Development* 6, no. 2 (2005).159.

<sup>328</sup> Ibid. 158.

to define the basic capabilities. This demonstrates a certain amount of respect for the agency of those who will use the approach, and allows to be applied and adapted to various cultural contexts rather than be crystallised in theory. This is particularly important when considering applying the approach to the countries of Melanesia in which diversity varies between countries, provinces and villages. Cultural context is incredibly important as previously discussed.

## Capabilities and Freedom

This ultimately leads to the concept of freedom. Sen emphasises that freedoms must not be confused with the freedoms or opportunities a person holds theoretically or legally, thereby freedoms concerns “the real opportunity that we have to accomplish what we value.”<sup>329</sup> This approach provides a lens in which to truly understand, measure and promote human freedom in various contexts by examining the “what we value” phrase in Sen’s theory. Nayyar highlights that such freedoms are not just constitutive in development they are also the principal means of attaining development.<sup>330</sup> Capability approach asks us to evaluate the well being of individuals according to their own personal and cultural values of beings and doings, and to work to advance their freedom through those exact values.<sup>331</sup> Thus, the capability view is in principle compatible with cultural relativism,<sup>332</sup> in that each culture is considered. However the approach is not constructed to assess associated capabilities of varying cultures, rather the approach has an intent focus on “what functions of human beings are most worth the care and attention of public planning, the world over.”<sup>333</sup> Herein lies a difficult task in applying the capabilities approach to development policy, deciding which capabilities are the most important, and the most intrinsic in achieving a dignified life. There is an infinite range of capabilities and as Fukuda-

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<sup>329</sup> *Inequality reexamined*.31.

<sup>330</sup> Deepak Nayyar, "Macroeconomics and Development," *Journal of human Development and Capabilities: A Multidisciplinary Journal for People-Centred Development* 13, no. 1 (2012).10.

<sup>331</sup> Monica McLean Melanie Walker, Arona Dison, Rosie Peppin-Vaughan, "South African universities and human development: Towards a theorisation and operationalisation of professional capabilities for poverty reduction," *International Journal of Educational Development* 29(2009).567.

<sup>332</sup> Nussbaum, "Introduction."5.

<sup>333</sup> *Ibid*.5.



Parr highlights, the "value that individuals assign to each one can vary"<sup>334</sup> not only between people but also over time and within different social contexts.

## **Agency and Participation in Development**

Alongside capabilities, agency is intrinsic to achieving freedom. Freedom for Sen concerns both the "processes of decision making as well as opportunities to achieve valued outcomes".<sup>335</sup> The latter being the aspect of capabilities while the former referring to the agency aspect. This approach emphasises the importance of the agency role of the individual, as someone "who acts and brings about change."<sup>336</sup> Agency thus reflects a person's ability to choose and pursue goals and objectives in terms of one's values.<sup>337</sup> Moreover agency encompasses the "meaning, motivation and purpose"<sup>338</sup> of an individual's activity, essentially capturing the power within. It is important to recognise that agency can be exercised by both individuals and groups. Human agency has been identified as core to successful human development and capabilities that in turn are prerequisites for sustainable development.<sup>339</sup>

In talking about development activities Sen argues that "the people have to be seen...as being actively involved – given the opportunity – in shaping their own destiny, and not just as passive recipients of the fruits of cunning development programs."<sup>340</sup> Local participation and involvement is particularly key for donors in order to not be perceived as an outsider force. Although in saying this it can be hard to engage local support and initiate development activities, when in some societies leaders are often not fair representations of the majority. For example, in a predominantly patriarchal society elites will be more than likely inclined to

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<sup>334</sup> Fukuda-Parr, "The human development paradigm: operationalizing Sen's ideas on capabilities."305.

<sup>335</sup> Sen, *Development as freedom*, 1st.291.

<sup>336</sup> Ibid.19.

<sup>337</sup> Jane Bryson, "Lifting Performance Through Facilitating Capability," in *ITF Research Forum* (Wellington: Victoria University of Wellington, 2011).

<sup>338</sup> Kabeer, "Resources, Agency, Achievements: Reflections on the Measurement of Women's Empowerment."438.

<sup>339</sup> Stanley T. Asah, "Post-2015 Development Agenda: Human Agency and the Inoperability of the Sustainable Development Architecture," *Journal of Human Development and Capabilities* 16, no. 4 (2015).632.

<sup>340</sup> Sen, *Development as freedom*, 1st. 53.

be male and/or come from a privileged background and therefore have a limited view of the poor realities of the collective and of women in girls in particular. While a leader is all well and good, a leader who overrules group agency in favour of their own perspective and ideas, sacrifices both group and individual agency as neither are in control of their own life.

Crocker adds that authentic development will only occur when individuals at all levels deliberate, decide and act in society rather than remain the victim.<sup>341</sup> People and social groups who are the targets of development activities and initiatives need to be recognised as agents and therefore involved in the development process. For example, by recognising women as agents they can define priorities that will resonate with their fellow women and choose the best means to achieve them.

## **Human Rights and Capabilities**

The language of rights has had a longer and a more influential history than that of capabilities. Rights are now frequently used at the forefront of the fight against poverty and inequality making visible the inhumanness of people's deprived conditions in order to secure social, political and economic claims. Whereas in the past, poverty was neglected as human rights concern.<sup>342</sup> It is widely recognised that the promotion and protection of human rights is crucial for survival and well-being of an individual.

The UDHR is now often used as a checklist by governments, NGOs and social movements as a measurement and indicator of performance. However the power of human rights theory is complex and somewhat hazy. The question that many struggle to offer a clear explanation for, is to understand what human rights are rights to. Nussbaum poses some crucial theoretical questions surrounding

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<sup>341</sup> David Crocker, "Participation in Local Development: Goulet and Deliberative Democracy," in *New directions in development ethics: essays in honor of Denis Goulet*, ed. Denis Goulet, Charles K. Wilber, and Amitava Krishna Dutt (Notre Dame, Ind: University of Notre Dame Press, 2010).309-310.

<sup>342</sup> Polly Vizard, *Poverty and human rights: Sen's 'capability perspective' explored*, vol. 9780199273874 (Oxford;New York;: Oxford University Press, 2006).2.

human rights and their significance to individuals as well as societies. Questions that ask when we speak of human rights, is that, a right to be treated in certain ways; to certain resources to achieve a certain level of well-being? Nussbaum concludes that unless users of rights language link their references to a theory, it won't be well-received by its audiences.<sup>343</sup>

While it may seem that human rights and capabilities are similar, the two concepts are grounded in very different frameworks and as a result it is suggested this is how it should remain. However, their differences together enhance and strengthen the other. Alexander has critically examined the relations between the two concepts in order to understand whether they are complementary or whether they are instead competing against one another.<sup>344</sup> The capabilities approach has been criticised for focussing excessively on individuals at the expense of groups and social structures.

While the capabilities approach focuses on individual capabilities, Alexander highlights the importance the capabilities approach places on the institutional frameworks, where "individuals acquire and enhance their capabilities."<sup>345</sup> By defining a society's physical environment including the social aspects such as language and culture as goods (non-individualised), the capabilities approach is enabling them to be consumed collectively, rather than by individuals.<sup>346</sup> As a consequence this also helps to support other individual capabilities which enable individuals to lead valuable human lives. For example, a clean and healthy environment free from disease is essential in securing well-being, and not only benefits an individual but a whole society in that region. The same can be said for language.

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<sup>343</sup> Martha Nussbaum, "Capabilities and Human Rights," *Fordham Law Review* 66, no. 2 (1997).275.

<sup>344</sup> John M. Alexander, "Capabilities, human rights and moral pluralism," *The International Journal of Human Rights* 8, no. 4 (2004).452.

<sup>345</sup> Ibid. 466.

<sup>346</sup> Ibid. 456.

## Adapting the Capabilities Approach to Include an Intercultural Perspective

Figure 2 portrays a visual representation of the conceptual framework this study attempts to undertake in order to answer the research question, “To what degree can a EU Rights-Based Approach impact the capacity of civil society to promote gender equality and counter gender-based violence in Melanesian societies?”

The diagram adapts a schematic representation of the capabilities approach to include an overarching intercultural awareness. *Means to achieve* portrays the resources or primary goods or incomes that act as a means to achievements and freedoms. However Sen’s capabilities approach is not primarily concerned with the amount of resources available to individuals, instead claiming that in evaluating well-being both capabilities and functionings are the primary objects of interest.<sup>347</sup> *Freedom to achieve* represents the capabilities of an individual that according to Sen, “reflects the alternative combination of functionings the person can achieve, and from which he or she can choose one collection.”<sup>348</sup>

Thus, capabilities signify the real options one has available. Once equipped with the capability set, an individual is theoretically enabled with the choice of how to put that capability into action. Functionings are interpreted as *Achievement* in this figure and reflect the beings and doings of an individual and therefore what he or she is ultimately able to do or be in living. Achievement is reflective on an individuals capability set which is dependent on a number of *Personal and Social Conversion Factors* (for example, gender). Factors such as intelligence, social norms and gender roles play a massive role in the conversion from *Means to Achieve* to *Freedom to Achieve*.

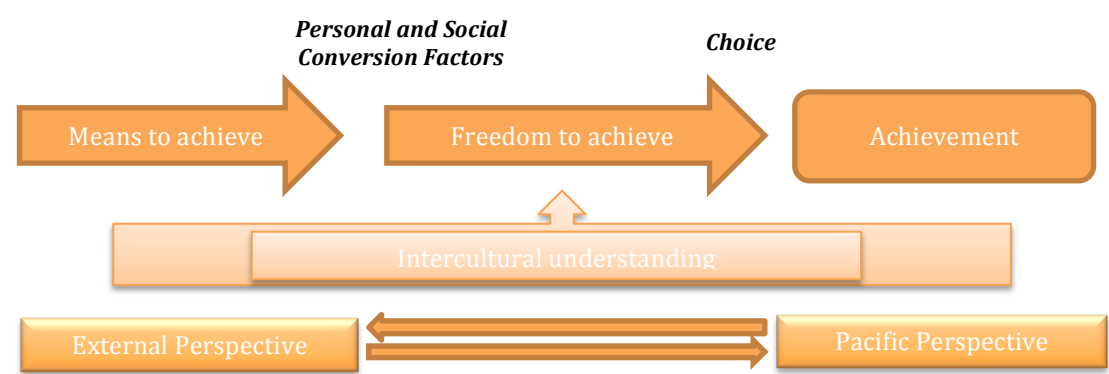
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<sup>347</sup> Sen, *Inequality reexamined*.46.

<sup>348</sup> "Capability and Well-Being."31.

For example, women may have the ability to vote however due to a patriarchal society and power relations and perhaps also a lack of knowledge around political structures, it becomes more difficult to use the resource to enable functionings and ultimate achievement. Hence, knowing only the resources is not enough to know which functionings can be achieved; a lot more information and understanding is needed around the circumstances on the ground.

Figure 2 Conceptual Framework applying an interculturalist view to the capabilities approach<sup>349</sup>



<sup>349</sup> Authors adaption of, Ingrid Robeyns, "An unworkable idea or promising alternative? Sen's capability approach re-examined," Center for Economic Studies Discussions Paper Series (2000).5.

## 5. Measuring the Impact of Policy on Human Rights

### Impact Assessments

In order to assess the effectiveness of the EU RBA on the capacity of civil society this research will undertake a mixed methods approach. By employing a mixture of both quantitative and qualitative methods, a mixed methods approach to research can be viewed as “providing a more complete and deeper understanding of the subject under investigation and having greater scope.”<sup>350</sup> This methodology combines context-specific rich qualitative data with the ability to generalise across patterns typical for quantitative research insights. Therefore a mixed methods approach enables an in-depth investigation into the social world through “more than one way of knowing.”<sup>351</sup>

This research adapts a type of Human Rights Impact Assessment (HRIA) that instead of focussing on the potential human rights impact concentrates on the impact on the capacity of civil society. This paper therefore describes this particular method as a capacity impact assessment in order to gain a deeper analysis of an EU RBA in action on the ground in Melanesia. Interviews were conducted with a number of agencies and non-governmental organisations in Suva, Fiji in order to complement the capacity impact assessment and produce a analysis of the situation on the ground. Together these methodologies work to represent an up-to-date image of what is actually happening on the ground in terms of the impact of the EU’s RBA on the capacity of civil society to target gender-based violence in the five countries of Melanesia in order to demonstrate the effectiveness of the EU’s translation of policy into action.

It is important to understand the concept of ‘impact assessment’ before looking further into the framework of a human rights impact assessment in order to have a conceptual understanding of the potential for a capacity impact assessment. There are various forms of impact assessments (IA) that are utilised in order to

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<sup>350</sup> Hubert van Griensven, Ann P. Moore, and Valerie Hall, "Mixed methods research - The best of both worlds?," *Manual therapy* 19, no. 5 (2014).368.

<sup>351</sup> Jennifer Greene in R. Burke Johnson, Anthony J. Onwuegbuzie, and Lisa A. Turner, "Toward a Definition of Mixed Methods Research," *Journal of Mixed Methods Research* 1, no. 2 (2007).119.

evaluate the effect of policies, practises, programmes and regulatory interventions across a wide range of fields. The most well-known and internationally recognised are environmental impact assessments (EIA) which are used globally and in particular countries are legality.

EIA is a process of “identifying, predicting, evaluating and mitigating the biophysical, social, and other relevant effects of development proposals prior to major decisions being taken and commitments made.”<sup>352</sup> Social impact assessment and health impact assessments have since followed in the steps of EIA however both are still aiming to reach the level of validity that EIA has achieved over the years. As a result of the wide variety of impact assessments, there are many levels of understanding of what the process represents.

Lawrence defines impact assessment in its simplest form as the “process of identifying the future consequences of a current or future action.”<sup>353</sup> He goes onto explain the impact assessment process as “identifying and managing risks and uncertainties”<sup>354</sup> encompassed in a range of actions from policy and legislation to plans and projects. The ‘impact’ is defined as the difference between what would happen if an action was undertaken and what would happen if it was not.<sup>355</sup> Impact assessments are tools that help to inform policy-makers and decision-makers. There is often much controversy that surrounds political decisions and the flow-on effects that impact the relationships between different groups in different ways depending on the given situation. Disagreements can stem from intersecting factors such as social, cultural, religious, class and gender divides that can then implement “significant social conflict, political dispute and legal challenge.”<sup>356</sup>

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<sup>352</sup> International Association for Impact Assessment and Institute of Environmental Assessment, "Principles of Environmental Impact Assessment Best Practise," (1999).2.

<sup>353</sup> David P. Lawrence, *Impact assessment: practical solutions to recurrent problems and contemporary*, vol. Second (Hoboken, New Jersey: John Wiley & Sons, Inc, 2013).5.

<sup>354</sup> Ibid.

<sup>355</sup> International Association for Impact Assessment (IAIA), "What is Impact Assessment?," ([http://iaia.org/uploads/pdf/What\\_is\\_IA\\_web.pdf](http://iaia.org/uploads/pdf/What_is_IA_web.pdf): I, 2009).

<sup>356</sup> Richard Howitt, "Theoretical Foundations," in *New directions in social impact assessment: conceptual and methodological advances*, ed. Frank Vanclay and Ana Maria Esteves (Cheltenham: Edward Elgar Pub, 2011).80.

Howitt explains the importance of impact assessment in democratic nations as a way of offering “non-partisan information, analysis and advice”<sup>357</sup> for decision-makers. Impact assessment places a significant value on public participation (PP), which is extremely important for successful implementation of policy and action. PP may be defined as the involvement of individuals and groups that are affected by a proposed intervention.<sup>358</sup> PP promotes good governance and has the potential to empower local communities. PP can involve passive participation, to participation through consultation, to interactive participation and depends on which stage PP is used as to what type of PP is relevant.<sup>359</sup> Through effective participation, decision-makers can make sound decisions knowing the likely impact on the environment and on the people, as a result of local voices on the ground being given the opportunity to be heard. By providing an opportunity for stakeholders to have a voice and engage in dialogue around the potential impacts of a proposed policy or action ensures an accurate impact assessment whilst contributing to successful implementation and ultimately better projects and better development. For example, in a study undertaken to assess the public participation in impact assessment of offshore oil exploration in Greenland, it was emphasised that PP was crucial for achieving a mutual understanding for which upon sustainable development can be founded.<sup>360</sup>

Environmental Impact Assessment (EIA) has become enshrined and adopted within laws and procedures worldwide in order to assess the impact of human activities on both human health and the biophysical environment.<sup>361</sup> Other forms of impact assessment focus on specific type of impacts such as health, ecological and diversity. Social Impact Assessment (SIA) integrates the social sciences within the practise IA. This brings a very human element to IA, placing huge

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<sup>357</sup> Ibid.

<sup>358</sup> B. Enserink P. Andre, D. Connor and P. Croal, "Public participation International Best Practise Principles," *International Association for Impact Assessment Special Publication Series No 4* (2006).1.

<sup>359</sup> Ibid.

<sup>360</sup> Anna-Sofie Hurup Olsen and Anne Merrild Hansen, "Perceptions of public participation in impact assessment: a study of offshore oil exploration in Greenland," *Impact Assessment and Project Appraisal* 32, no. 1 (2014).79.

<sup>361</sup> International Association for Impact Assessment (IAIA), "What is Impact Assessment?."



significance on public participation, values and ethics and the relationship that exists between the exertion of political power and human impact.<sup>362</sup>

SIA aims to analyse and monitor the social impacts of development and was born from the EIA. Its primary objective is to achieve a more equitable and sustainable environment with maximal benefits and minimal costs for people. Particular costs and benefits are difficult to quantify and therefore are often “not adequately taken into account by decision-makers, regulatory authorities and developers.”<sup>363</sup> Therefore a SIA offers a framework to help understand institutions and the relationships that exist in varying social contexts that in turn facilitate “creative and constructive engagement”<sup>364</sup> on issues prevalent in the social sciences such as power, culture, difference and community.

Many reports based on the methodology of a SIA have been described as weak in terms of reliability and validity, robustness and significance.<sup>365</sup> This can be due to outdated secondary data sources, therefore it is advised to complement desk-based research with local data collected from on the ground.<sup>366</sup> This strengthens the foundations of the research and enables a more accurate identification and in-depth analysis of impacts and benefits. Without primary sources assessments can potentially be “little more than a social and economic profile of the impacted communities compiled from secondary data sources.”<sup>367</sup> Therefore it is imperative to have a combination of primary and secondary sources when conducting an impact assessment in order to capture the most accurate and up-to-date picture of the impact of what is actually happening on the ground.

While human rights impact assessment methodology draws on the theory and methodological frameworks of both EIA and SIA, it should be highlighted that all

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<sup>362</sup> Lawrence, *Impact assessment: practical solutions to recurrent problems and contemporary*, Second.43.

<sup>363</sup> Frank Vanclay, "International Principles for Social Impact Assessment," *Impact Assessment and Project Appraisal* 21, no. 1 (2003).7.

<sup>364</sup> Howitt, "Theoretical Foundations."78.

<sup>365</sup> Daniel Franks and Frank Vanclay Ana Maria Esteves, "Social Impact Assessment: the state of the art," *Impact Assessment and Project Appraisal* 30, no. 1 (2012).37.

<sup>366</sup> Ibid.

<sup>367</sup> Ibid.

existing frameworks of impact assessments do not provide a human rights analysis therefore leaving a gap in the field.<sup>368</sup> The overarching objectives of all impact assessments are the promotion of transparency, participation and evidence-based decision-making in order to predict the consequences of actions on the ground, these principles remain the basis for a HRIA.<sup>369</sup> As an emerging field of practise, unlike its predecessors, HRIA methodology has made limited progress and has consequently struggling to become entrenched within law and policy-making processes.<sup>370</sup> Independent from SIA as it does not explicitly address human rights, the human rights community have promoted the impact assessment as a means in order to advance respect, protection and fulfilment of human rights. It can easily be forgiven to assume a collaboration framework of an HRIA with a SIA however by keeping the methodology separate a stand-alone HRIA ensures human rights remain the primary focus of the impact assessment. While the mainstreaming of human rights is well promoted within policies and legislations (such as could be in the respect of an SIA), it runs the risk of disregarding human rights as it depends on the individual in charge and their knowledge and priorities around the human right framework.

## Measuring Human Rights

Since the founding of the UDHR, there is an obligation on the behalf of governments to ensure the respect, protection and fulfilment of all human rights for all citizens. This is demonstrated in wide array of international, regional and national commitments and declarations as well as funding programmes by donor agencies and the many activities implemented by NGOs recognising the universality of human rights. However there are questions that remain surrounding the benefits and impacts of these pronouncements on the actual human rights of people. The measurement of human rights is crucial in order to

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<sup>368</sup> K. Salcito et al., "Experience and lessons from health impact assessment for human rights impact assessment," *BMC INTERNATIONAL HEALTH AND HUMAN RIGHTS* 15, no. 1 (2015).1.

<sup>369</sup> G. MacNaughton, "Human Rights Impact Assessment: A Method for Healthy Policymaking," *HEALTH AND HUMAN RIGHTS* 17, no. 1 (2015).64.

<sup>370</sup> Gillian MacNaughton and Paul Hunt, "A human rights-based approach to social impact assessment," in *New directions in social impact assessment: conceptual and methodological advances*, ed. Frank Vanclay and Ana Maria Esteves (Cheltenham: Edward Elgar Pub, 2011).363.

move human rights beyond an aspirational framework<sup>371</sup> towards becoming more concrete and practical in the form of tangible results, being the realities for all people. One of the research field's leading contributions to measuring and analysing the importance of human rights has emerged from Todd Landman who focuses on exploring analytical techniques for impact assessments. Landman identifies the purposes of measuring and monitoring human rights as being contextual description and documentation, classification, monitoring, mapping and pattern recognition, secondary analysis and advocacy tools and analysis.<sup>372</sup> This research will specifically focus on the measurement of human rights for secondary analysis, which includes impact assessment.<sup>373</sup>

To measure 'impact' can be a particularly difficult task. The nature of human rights issues means that they are more than likely to be socially and culturally entrenched in societies and therefore any 'impact' will only occur on a long-term scale, thus making it difficult to measure in comparison to short-term inputs/successes. To put this into perspective, Raine uses the example of an input as a radio program targeting domestic violence to the long term impacts which can be deeply entrenched in social and cultural norms and regulations.<sup>374</sup> Human rights are very difficult to quantify or measure and due to their elusive nature they are susceptible to different interpretations and understandings, particularly in different contexts. Human rights work unfortunately tends to happen on a superficial basis in many development programmes and activities.

Thus it is difficult to identify the gap that lies between human rights language and the reality of that human rights language on the ground. It is therefore logical in the field of human rights for a heavy focus on attempts to measure human rights standards and reality.<sup>375</sup> Or what is more commonly described as

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<sup>371</sup> Watchirs, "Review of Methodologies Measuring Human Rights Implementation."716.

<sup>372</sup> Todd Landman, "Measuring and Monitoring Human Rights," in *Human Rights: Politics and practise*, ed. Michael Goodhart (Oxford: Oxford University Press, 2013). 366.

<sup>373</sup> Ibid. 365.

<sup>374</sup> Fernande Raine, "The Measurement Challenge in Human Rights," *International Journal of Human Rights* 4, no. 3 (2006).15.

<sup>375</sup> Todd Landman and Edzia Carvalho, *Measuring human rights* (Milton Park, Abingdon, Oxon;New York;: Routledge, 2010). Todd Landman, "Measuring Human Rights: Principle, Practice, and Policy," *Human Rights Quarterly* 26, no. 4 (2004).

the gap between rhetoric and action, reach and impact. A human rights impact assessment (HRIA) has become an important tool in the measuring process. In the globalised world we live in, decisions and actions made at all levels including local, national and international, widely influence one another. Through the HRIA framework, practitioners and academics alike are enabled to examine the linkages between the levels and assess their impacts on human rights.<sup>376</sup> Impact assessments have also been likened to impact evaluation or impact measurement, monitoring and evaluation, all of which place particular emphasis on 'evidence' to inform future policy and action.<sup>377</sup> Much work around HRIAs are in the field of human rights and business as a result of calls for businesses to be more aware of their impact as well as to use their sphere of influence for the greater good.<sup>378</sup> While states are under obligation to protect citizens from human rights abuses, businesses and companies in the private sector have a similar duty to ensure their practises adhere to domestic laws which may be guided by international human rights framework.<sup>379</sup> However as highlighted by Watson *et al.* human rights abuses by non-state actors often are unheard of in comparison to that of state abuses.<sup>380</sup>

## Human Rights Impact Assessment

A human rights impact assessment (HRIA) in particular can be broadly defined as "measuring the impact of policies, programmes, projects and interventions on human rights."<sup>381</sup> In doing so decision makers and those likely to be affected by a

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<sup>376</sup> Hansje Plagman and Marije Nederveen Saskia Bakker, "HeRWAI Health Rights of Women Assessment Instrument," ed. Aim For Human Rights (The Netherlands: Aim for Human Rights, 2010).17.

<sup>377</sup> Catherine Corey Barber, "Tackling the evaluation challenge in human rights: assessing the impact of strategic litigation organisations," *The International Journal of Human Rights* 16, no. 3 (2012).

<sup>378</sup> Rebekah Gay, "Mainstreaming Wellbeing: An impact assessment for the right to health," *Australian Journal of Human Rights* 13, no. 2 (2008).37.

<sup>379</sup> John Ruggie, "Guiding principles on business and human rights: implementing the United Nations 'protect, respect and remedy' framework. Report of the Special Representative of the Secretary General on the issue of human rights and transnational corporations and business enterprises," ed. UN Doc A/HRC/17/31 (2011).13.

<sup>380</sup> Gabrielle Watson, Irit Tamir, and Brianna Kemp, "Human rights impact assessment in practice: Oxfam's application of a community-based approach," *Impact Assessment and Project Appraisal* 31, no. 2 (2013).119.

<sup>381</sup> An Introduction to Human Rights Impact Assessment. "Human Rights Impact Resource Centre. [www.humanrightsimpact.org/hria-guide/overview/](http://www.humanrightsimpact.org/hria-guide/overview/) Accessed 28 April, 2015.

proposed policy can “improve the proposal to reduce potential negative effects and increase positive ones.”<sup>382</sup> As a HRIA is of an emerging field there is no consensus on a methodology however there are several common threads in the field. Firstly, there is a consensus that the HRIA is explicitly grounded in the human rights normative framework. According to Harrison it is clear that there will be no uniform methodological approach to performing a HRIA.<sup>383</sup>

There are ultimately two different impacts that can be recognised – it can be positive and therefore the human rights situation improves, or it can be negative in which case the human rights situation worsens. HRIAs include assessments of all activities that are intentionally and directly aimed at improving a human right situation as well as activities which may have unintended human rights consequences.<sup>384</sup>

As well as contributing towards mapping human rights violations, HRIAs are also used to “serve as advocacy tools by assisting in the formulation of concrete, rights-based recommendations for change in policy.”<sup>385</sup> Such impact assessments can contest the transparency and accountability in policy and decision-making, and act as excellent tools for civil society to hold governments accountable for human rights violations. A good HRIA tool allows organisations and human rights academics to collect data in a structured way, based on the evidence available.<sup>386</sup> They provide a framework for “systematic human rights methodology and assist in advancing an understanding of the impact of a range of interventions on human rights.”<sup>387</sup> Thus, highlighting in the process, the

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<sup>382</sup> Paul Hunt and Gillian MacNaughton, "Impact Assessments, Poverty and Human Rights: A Case Study Using the Highest Attainable Standard of Health," (WHO and UNESCO, 2006).4.

<sup>383</sup> James Harrison, "Human rights measurement: Reflections on the current practice and future potential of human rights impact assessment," *Journal of Human Rights Practice* 3, no. 2 (2011).165.

<sup>384</sup> Dr James Harrison, "Measuring Human Rights: Reflections on the practise of human rights impact assessment and lessons for the future," *Warwick School of Law Research Paper* 26(2010). 5.

<sup>385</sup> Saskia Bakker et al., "Human Rights Impact Assessment in practice: The case of the health rights of women assessment instrument (HeRWAI)," *Journal of Human Rights Practice* 1, no. 3 (2009). 436.

<sup>386</sup> Ibid. 450.

<sup>387</sup> Nordic Trust Fund, "Study on Human Rights Impact Assessments: A review of the literature, differences with other forms of assessments and relevance for development," (The World Bank, 2013).1.

“multifaceted relevance” of human rights. Goicolea et al. define this structure using three stages: (1) to look at ‘what should be happening’; (2) to assess ‘what is actually happening’, and (3) to ‘highlight the gaps between national policy commitments and the realities of local communities.’<sup>388</sup> Therefore in brief, a HRIA scopes human rights issues, examines what relevant actions are in place in order to assess the impacts and issue guidance for future steps in policy and action.<sup>389</sup>

## **Scoping and Screening Processes in Impact Assessment Methodology**

All impact assessments include the important process and exercise of scoping and/or mapping of a particular issue in order to build a thorough and complete image of the situation in focus. Watchirs’ overview of the five core steps associated with undertaking a health impact assessment, highlights both the processes of screening and scoping are used in order to provide a thorough and in-depth evaluation of the impact of a particular policy on health rights.<sup>390</sup>

## **Indicators**

Quantitative data is often perceived as the central tool to be used in assessment, evaluation and monitoring.<sup>391</sup> One of these tools that is recognised as being particularly powerful are indicators, which are widely used at both the international and national levels for assessing many social justice and reform strategies. They can be described as essential elements of monitoring and evaluation systems that can measure progress towards a particular goal whilst also enabling comparison between units as well as over different time periods.<sup>392</sup>

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<sup>388</sup> Isabel Goicolea, Miguel San Sebastián, and Marianne Wulff, "Women's reproductive rights in the Amazon basin of Ecuador: Challenges for transforming policy into practice," *Health and human rights* 10, no. 2 (2009). 92.

<sup>389</sup> Salcito et al., "Experience and lessons from health impact assessment for human rights impact assessment."3.

<sup>390</sup> Watchirs, "Review of Methodologies Measuring Human Rights Implementation."722.

<sup>391</sup> AnnJanette Rosga and Margaret L. Satterthwaite, "The trust in indicators: measuring human rights," *Berkeley Journal of International Law* 27, no. 2 (2009).254.

<sup>392</sup> Dimitrios Skempes and Jerome Bickenbach, "Developing human rights based indicators to support country monitoring of rehabilitation services and programmes for people with disabilities: a study protocol," *BMC international health and human rights* 15, no. 1 (2015).4.

The global obsession with numbers and statistical data has increased with the world becoming more and more business minded and therefore partaking in a more corporate way of thinking. Numbers can effectively provide quick and convenient transfers of knowledge whilst also giving a specific issue a type of validity. Merry highlights that indicators are used to consolidate large groups of information into a simple and accessible statistic that is meaningful to both the public and the individual.<sup>393</sup> In doing so, Merry goes onto emphasise the lack of context given in favour of “superficial but standardised knowledge.”<sup>394</sup> In turn this simple knowledge reflected by indicators is needed to support informed policy and decision-making.<sup>395</sup> Indicators are particularly effective in raising awareness of an issue, and therefore are being widely adopted in the sphere of development and human rights.

## Human Rights Indicators

Indicators have become increasingly employed in the field of human rights in order to measure a country’s compliance with the UDHR. Within the human rights community there are two distinct types of indicators, one of which refers to numbers and statistics while the other is more thematic in nature, and covers any information specific to the enjoyment of a specific human right.<sup>396</sup> The UN has recognised that a shift away from statistics is necessary in the measurement of human rights as general statistics often indirect and lack clarity in application.<sup>397</sup> Instead thematic indicators that are embedded in the normative human rights framework can be more readily applied and interpreted.<sup>398</sup> The UN goes onto categorise human rights indicators in terms of fact-based and judgment-based that corresponds with objective and subjective indicators.

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<sup>393</sup> Sally Engle Merry, "Measuring the World: Indicators, Human Rights, and Global Governance," *Current Anthropology* 52, no. S3 (2011).S86.

<sup>394</sup> Ibid.

<sup>395</sup> Expert Group Meeting organised by UN Division for the Advancement of Women, (Geneva, Switzerland: UN Economic Commission for Europe, UN Statistical Division, 2007).4.

<sup>396</sup> Maria Green, "What We Talk about When We Talk about Indicators: Current Approaches to Human Rights Measurement," *Human Rights Quarterly* 23, no. 4 (2001).1077.

<sup>397</sup> United Nations Human Rights Office of the High Commissioner, "Human Rights Indicators: A Guide to Measurement and Implementation," (New York and Geneva: The United Nations, 2012).2.

<sup>398</sup> Ibid.

Therefore objects or facts, things that can be directly observed, are identified as objective. On the other hand, subjective indicators incorporate perceptions, opinions or judgments expressed by an individual. However, in the world that we live in, there is an increase in 'evidence-based data' meaning that subjective indicators do not have the same weight of validity and reliability that objective indicators do. In regards to civil society and non-governmental organisations, there is a call for their results on the ground to be both quantifiable and measurable. This is a huge challenge in the measurement of human rights as it is recognised as being extremely difficult to apply qualitative or textual/subjective information into measurable objects whilst also knowing what to measure in order to conceptualise a particular issue.<sup>399</sup> According to Skempes and Bickenbach, it is therefore essential to "delineate the attributes of the right under examination and identify the key obligations of signatories to a specific treaty."<sup>400</sup> From here they are then mapped onto indicators. However, this is a point of debate, as human rights indicators cannot be chosen based on their measurability. As a result, not all aspects relevant to human rights can be reduced to quantitative or measurable form. Fukuda-Parr et al. highlight that the human principles of participation, equality, democratic voice and accountability can not be easily measured or quantified<sup>401</sup> and yet form the basis of the human rights-based approach to development and therefore should be included within all processes of development.

Methodologically speaking, it is a very challenging task to create human rights indicators. There is currently no universal methodology for the development of indicators that satisfies both the principles of human rights monitoring and the scientific standards of validity and reliability.<sup>402</sup> Reviewing the literature on

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<sup>399</sup> Skempes and Bickenbach, "Developing human rights based indicators to support country monitoring of rehabilitation services and programmes for people with disabilities: a study protocol."4.

<sup>400</sup> Ibid.

<sup>401</sup> Sakiko Fukuda-Parr, Alicia Ely Yamin, and Joshua Greenstein, "The Power of Numbers: A Critical Review of Millennium Development Goal Targets for Human Development and Human Rights," *Journal of Human Development and Capabilities* 15, no. 2-3 (2014).

<sup>402</sup> Sofia Gruskin and Laura Ferguson, "Using indicators to determine the contribution of human rights to public health efforts," *Bulletin of the World Health Organization* 87, no. 9 (2009).



human rights indicators, it is clear that because of the somewhat elusive nature of human rights, there will always be an element of subjectivity in the measurement and assessment of human rights. This is not a bad thing as not all indicators within the human rights framework will be able to be quantified. It is better to include a combination of both quantitative and qualitative, objective and subjective indicators in order to construct an accurate image.<sup>403</sup> Human rights are universal and indivisible and therefore to omit certain aspects based on their inability to be measured defies the process of HRIA and the HRBA to development cooperation. As highlighted to myself at a conference recently on development in the Pacific, numbers and statistics do not paint a reality and thus has the potential to dehumanise those of which human rights frameworks aim to advocate for. The use of indicators in this research contributes to providing a brief overview of the situation on the ground and is not relied on as an absolute methodology in itself.

## **HeRWAI**

The group 'Aim for Human Rights' developed the Health Rights for Women Assessment Instrument (HeRWAI) during a time when women's rights were being increasingly pushed to the forefront of policy-making. It is one of the most heavily practised HRIA instrument and has been utilised by a number of non-governmental organisations globally to examine impacts.<sup>404</sup> HeRWAI is a "strategic tool and resource guide to enhance lobbying activities for better implementation of women's health rights by asking the right questions."<sup>405</sup> It is based on a human rights based approach.

HeRWAI was developed to be a tool that would empower NGOs, particularly women's organisations in order to hold governments accountable for violations of women's health rights in both the development and implementation of its

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<sup>403</sup> Sital Kalantry, Jocelyn E. Getgen, and Steven Arrigg Koh, "Enhancing Enforcement of Economic, Social, and Cultural Rights Using Indicators: A Focus on the Right to Education in the ICESCR," *Human Rights Quarterly* 32, no. 2 (2010).286.

<sup>404</sup> Harrison, "Measuring Human Rights: Reflections on the practise of human rights impact assessment and lessons for the future."

<sup>405</sup> Saskia Bakker, "HeRWAI Health Rights of Women Assessment Instrument." 10.

policies. It is based on a data collection and analysis that consists of six steps: 1.) description of the problem and related policy 2.) exploring the governments international and national commitments 3.)description of the governments capacity for implementation 4.)describe the effects of policy on women's health rights 5.)establish the accountability of the state 6.)develop recommendations and action plan.<sup>406</sup> Together with closely following the international human rights framework, this methodology helps in order to gain a better understanding of human rights issues on the ground in particular regards to women and girls as well as assessing the current or potential human rights impact of a policy. HerWAI has a specific focus on women's health rights and the obligation of the government to implement human rights. This framework can be adapted in order to assess the impact of a proposed policy or action on the human rights of any particular individual or group. It also doesn't necessarily limit itself to focusing on the state and can lend itself to focus on any duty-bearer, for example, the obligation of donor agencies.

This study adapted the large framework of HerWAI impact assessment and corresponding indicators in order to create a somewhat similar type of impact assessment in the form of a 'capacity impact assessment'. It followed a checklist of indicators for the assessment of the EU RBA on the capacity of civil society in raising awareness of gender-based violence (See Appendix 1) which had more smaller, accessible and relevant set of indicators for this particular study. The collected interview data allowed the researcher to identify indicators most appropriate to answer the research question and sub-questions below. The data recognized four layers crucial to an in-depth understanding of the reach and impact of EU RBA; the current human rights situation; the capacity of civil society to implement programmes; donor relations; culture/interculturalism and religion. All of these indicators contribute to building an image how the EU RBA is being operationalized on the ground in Melanesia and furthermore attempts to highlight the gap that remains between policy and action.

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<sup>406</sup> Ibid.

### **Capacity Impact Assessment “a type of Impact Assessment”**

HRIA methodology contributes to raising awareness of human rights. For the purpose of this research a type of HRIA will be used in order to assess the potential impact of the EU's rights-based approach in Melanesia, specifically focussed on issues related to gender-based violence and gender equality. It is clear from the literature on impact assessments, that the overall majority are incredibly thorough and require a certain amount of resources including a dedicated team of skilled researchers and practitioners in the field as well as an extended amount of time. Due to financial and time constraints as well as a word limitation associated with conducting research at Masters level, this research was unable to perform an impact assessment of considerate size and scope.

This type of impact assessment is less intensive and performs more of a scoping and mapping exercise in order to highlight the potential gaps that exist between EU's rights-based approach and its actual impact on the ground for civil society in Melanesia around issues related to gender-based violence. This research methodology and overall project will hopefully increase the awareness of the severity of gender-based violence in Melanesia and in the broader Pacific region. Too often sensitive issues in societies, such as gender-based violence, are swept under the carpet in favour of issues that are more readily accessible and more publicly acceptable. While international donor agencies such as the EU and the countries of Melanesia recognise gender-based violence as an issue hindering progress toward achieving sustainable development there is a gap between policy and action. This research is about understanding the reach and impact of the EU's rights-based approach in efforts to raise awareness and ultimately close the gap. This awareness-raising will take place at various levels including those who are directly involved in the EU development process in the Pacific as well as other international donor agencies who work in the region, and those of the public including members of civil society, practitioners and academics who read the study in reports and/or case study descriptions. The completed study will be sent to participants of interviews, as well as other members of civil society in the

Pacific in the hope that the findings will act as a type of lobbying tool, to be actively used to lobby donor agencies and users of the RBA, to question the actual impacts of their policies and programmes on having and implementing change on the ground.

In order to undertake a type of capacity impact assessment (CIA), this study adapted the HeRWAI model. Impact assessments can adhere to “broad frameworks or specific detailed checklists, or anything in between.”<sup>407</sup> Most tools, especially in the human rights context as previously noted, have their own individual ways of measuring impacts. Due to HRIA being a relatively new concept and framework and the various factors that affect human rights, there are many questions surrounding HRIA methodology such as to whether it is best to use qualitative or quantitative indicators, exactly how to assess human rights and identifying what to measure? Following the steps of HeRWAI, this study undertook a mapping and scoping exercise of Pacific regional and national policy and legislation around gender-based violence in order to identify the legal and social context for which this research is based. Secondly it was overlapped with EU external policy relating to human rights and gender, followed by a layer of specific EU-Pacific development strategies and projects that directly targeted GBV. By analysing and examining policy documents and then narrowing the analysis down towards projects on the ground funded by the EU, the research was able to draw conclusions of the gap that lies between policy and action, on the basis of the comparison of the impact of RBA and the capacity of civil society to implement projects targeting the awareness of GBV.

In regards to the theoretical framework of the capabilities approach, and the concept of interculturalism, this study questions what the EU is actually doing to make and enable change, for women in Melanesian societies. This approach provides an alternative framework of thought to identify what support or what is being done to support the capacity of civil society in Melanesia in order for them to help women achieve their full capabilities and lead a life of dignity as a Pacific woman in Melanesia. It asks what are the social arrangements that lead to the

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<sup>407</sup> Ibid.437.

ability of women to do or be something? The EU recognises and acknowledges the detrimental effect gender-based violence and gender inequality have on sustainable development. They also acknowledge the critical role that civil society play in advancing women's rights in the Pacific. Rather than focusing on what women can achieve, this research emphasizes the importance of looking at the opportunities available for women, to be used in one way or another as they see fit. As a rights-based approach to development encourages and promotes the empowerment of right-holders to take control of their own lives. The capabilities approach provides a lens as to if and how a RBA is actually enabling the lives of rights-holders through civil society, to claim their rights.

### **Interviews with Relevant Civil Society and Donor Agencies**

This study was able to undertake fieldwork in Suva, Fiji with funding provided by the New Zealand Aid Programme Postgraduate Field Research Award in 2016. A desk-based review of EU-Pacific relations created an image of the EU as a committed development actor in the region. In order to further analyse and examine the impact of the EU RBA, it was viewed as necessary to undertake fieldwork in the Pacific. This study would like to acknowledge the support from the NZ Aid Programme, as it would have not been possible to collect such valuable data without their input.

It was thought interviews would allow a first hand experience to observe what works and also what does not in the context of EU strategic approaches to development and civil society impact assessment. Primary and secondary sources reviewed in the literature give limited detail and in the case of secondary sources there is potential for knowledge to be out-dated by the time of publication. As this research has a focus on the impact of the RBA on civil society, interviews needed to take place with Pacific civil society.

This research had no interest in conducting interviews with victims of GBV nor did it want to speak with local women regarding the issue. The sole focus of the study is to understand the reach and impact of the EU RBA on the capacity of

civil society. Approval was received by the University of Canterbury Ethics Committee to conduct interviews with selected leaders of women's organisations as well as selected policy-makers in the region. Due to limited resources, interviews were unable to be conducted throughout Melanesia. It was decided that it would be feasible to only conduct interviews in Suva, Fiji despite the focus of the project being the region of Melanesia. This research acknowledges the complex diversity between the countries of Melanesia let alone the diversities that vary between the various communities and villages. As a result of circumstances, it was perceived as feasible to only conduct fieldwork in Suva in order to provide snapshot of what is actually happening on the ground since Suva is regarded as the political, development and administrative centre for the South Pacific. On the 20 February 2016, Cyclone Winston devastated the islands of Fiji. This understandably had an impact on communication with Suva. As a result, fieldwork was delayed until August-September 2016.

Semi-structured interviews (questionnaire in Appendix 2) were conducted with representatives of donor agencies, representatives of larger local non-governmental organisations as well as one interview with a regional local organisation. The eight organisations who were interviewed did have knowledge of the wider region of Melanesia through their outreach programmes which extend throughout the South Pacific. A list of local, regional and international organisations, who had received past and/or current funding from the EU for projects focussed on gender and GBV, was created. The organisations were firstly approached via email from New Zealand, inviting them to participate in the study. The response rate was underwhelming. This was put down to organisations being incredibly busy particularly in the aftermath of Winston.

It was decided that a more successful tactic would be to go to Suva and arrange interviews from on the ground. This proved somewhat successful with achieving eight in-depth semi structured interviews over three weeks. Seven of the eight participants were recorded with permission and the interviews were then transcribed verbatim on return to New Zealand. As a security measure cellphones and such recording devices were not allowed on one particular

premises and therefore one interview was unable to be recorded. One interview was also not recorded nor referenced for confidentiality reasons.

All questions aimed at gaining an insider's perspective of the effectiveness of a human rights-based approach to development as well as specifically targeting the EU's RBA and its potential impact on civil society. The study also focussed on rights issues facing the region and specifically asked how they believe GBV and gender equality should be targeted by donor agencies in the region. Participants from local civil society had markedly different views to those of donor agencies. It was decided to incorporate the interview data in the research, by applying it as the framework for the discussion as well as the indicators for the impact assessment. Ultimately the collected interview data determined the direction of the study. Relevant quotes and ideas that were perceived as interesting and potentially contradictory to policy documents are inserted in the study in order to highlight local civil society opinions, understandings and perceptions.

It was found to be more beneficial to organise interviews through recommendations of friends and colleagues. This can be put down to local civil society in the Pacific and the Pacific in general being over-researched and reduced to a type of research fatigue. This can be briefly defined as when "the researched" become tired of engaging with studies and can demonstrate "reluctance toward continuing engagement with an existing project, or refusal to engage with any further research."<sup>408</sup> The Pacific is so researched particularly by neighbouring countries and bilateral partners, Australia and New Zealand. This has caused a sense of exhaustion and related non-engagement among people and organisations in the Pacific with outsiders. This could be further exacerbated by the situation with external development together with colonial history. Research fatigue is a very serious limitation as it can impact the accuracy and reliability of data collection.

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<sup>408</sup> Tom Clark, "'We're Over-Researched Here!' Exploring Accounts of Research Fatigue within Qualitative Research Engagements," *Sociology* 42, no. 5 (2008).956.

## **6. Policy to Action? – Analysis of Capacity Impact Assessment**

Selected quotes frame the analysis of findings in order to ensure the local Pacific voices are heard and clearly understood within the framework of this study. Pacific voices need to be listened to and heard in order to achieve development goals in Melanesia and the broader Pacific region. It is the responsibility of donor agencies, governments and academics/researchers alike to enable development rather than to create it. While different organisations and donor agencies have their own differing interpretations of the operationalization of a RBA it is the common thread in all RBA processes for local voices to be listened to and understood in order to promote local participation and ownership. Without employing these two significant concepts in action on the ground, objectives of achieving sustainable development will not be legitimated on a local level and will most likely fail in the long-term.

As clearly articulated by an interview participant when talking about development power dynamics in Melanesia, “[its] because of the language, because of the technical jargon, its because of many things but not because they know our issues better than us.”<sup>409</sup> While there are many things that separate donor agencies and the local people whom they are trying to help, it will forever remain the local people who live and breathe the issue at point, who have the ideas and ultimately, the answers. Therefore this study aims to demonstrate the importance of this concept and put it into action as well as to potentially bring legitimacy and actual change in Melanesia.

### **The Women’s Rights Situation (desk-based analysis)**

This section looks at the current human rights and more specifically women’s rights situation on the ground in Melanesia, in terms of national policy and agreements, legislation as well international and regional commitments surrounding gender-based violence and violence against women and girls. By

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<sup>409</sup> Interview Participant 4, recorded on Friday 26 August, 2016 in Suva, Fiji.



exploring national and regional commitments this study identifies what policies and laws are relevant to the country as well as the EU's RBA to development cooperation in ending gender-based violence. This provides a foundation for the analysis, as it highlights what has and is being done on a national and regional level to target gender-based violence and gender inequality. The HeRWAI assessment model emphasises the importance of mapping out the political and social climate in which the assessment is operating.<sup>410</sup> By knowing what political processes are influencing the issue and whether or not they provide opportunities or obstacles help to create a complete image of the situation on the ground. This then gives the assessment and the entire study in general a solid base and context from which the study can draw on in order to gain a thorough and more in-depth understanding.

This section was undertaken as a mapping exercise in order to gather all the relevant data and identify gaps in the system nationally. It then compared this data to a timeline of both international and EU specific gender commitments and declarations. It attempts to emphasise what was actually happening nationally and regionally in Melanesia as well as on the gender front of the EU both in the region and in the framework of international development. By mapping the different policy and legislation layers between the EU as a donor agency in the Pacific and countries of Melanesia, this study portrays a correlation between the various actors. However while there are a significant amount of commitments to ending gender-based violence on all levels, questions are raised as to how big the gap is between policy and implementation, rhetoric and action as gender-based violence continues to be a constant heading in development in the Pacific region.

Firstly, each country was looked at individually and then together as the region of Melanesia, to include any regional legislation as well as policies and agreements that targeted the elimination of violence against women and girls and/or gender-based violence. A spreadsheet was created for each country and the region, with data collected between 1995 and 2016.

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<sup>410</sup> Saskia Bakker, "HeRWAI Health Rights of Women Assessment Instrument."24.

This data range was chosen because 1995 was the year in which the Beijing Declaration and Platform for Action were adopted at the Fourth World Conference on Women in Beijing as the result of the Pacific Platform for Action that was produced the year before.<sup>411</sup> In 1994 delegates from all 22 Secretariat of the Pacific Community member countries and territories endorsed a plan of action for advancing women's rights and gender equality in the region. Since the adoption of both the Pacific and Beijing Platforms for Action, Pacific Island countries and territories have used them as frameworks on their road to gender equality. This was a groundbreaking achievement in advancing women's rights, pushing it to the forefront of the global stage. This resonated within the nations of Melanesia also, with 1995 being the year in which Fiji, PNG and Vanuatu signed and ratified CEDAW. The data range ends in 2016 in correlation with the end of the study.

In order to find the relevant documents with accurate dates and information, desk-based research and analysis was undertaken. Specific documents such as the most recent CEDAW individual country reports were targeted in order to obtain current and up-to-date information. Other reports mapped included national government and civil society reports and regional reports from organisations such as the PIFS and the SPC. Such reports were scanned for any information regarding policies and agreements as well as legislation regarding the prevention of gender-based violence, domestic violence and violence against women and girls. The relevant information was recorded in the spreadsheet according to country and year the particular policy or law was enforced.

In order to narrow the focus of the data and simplify the presentation in accordance with the study's methodology of employing a capacity impact assessment, a new spreadsheet was formulated incorporating the six questions pertaining to the indicator of the women's rights situation in Melanesia. These were again categorised according to country as well as including the broader category of the region. The information from the previous spreadsheet was then

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<sup>411</sup> Secretariat of the Pacific Community, "Revised Pacific Platform for Action on Advancement of Women and Gender Equality (RPPA) 2005-2015," (Noumea, New Caledonia: Secretariat of the Pacific Community, 2005).1.

transferred and categorised appropriately. This allowed the researcher to directly access information that linked to the impact assessment of the EU RBA on the capacity of civil society in raising awareness of gender-based violence.

All countries of Melanesia have respectfully signed and ratified CEDAW, which acknowledges their commitment on the global stage to ending gender inequality and the promotion, protection and fulfilment of women's rights. However, the implementation of CEDAW is lacking as can be seen from the table (Appendix 3). The ratification of CEDAW obliges state parties to enact or modify state legislation and constitutions in accordance with the articles in the Convention. While it is only a small step in the road to gender equality it is nevertheless vital as it provides a mechanism through which individuals who have been discriminated against can seek redress.<sup>412</sup> Legislative action can also be described as a "vehicle for change"<sup>413</sup> particularly for those in civil society who seek to promote gender equality. It also represents a societal commitment to gender equality from which can potentially stimulate the cultural change needed in order to encourage sustainability.

From the table it became apparent that while CEDAW has been ratified legislative action has been slow to progress. Policies and strategies advocating women's rights including specific strategies targeting violence against women are bountiful however are not legally binding. The overwhelming amount of gender policies demonstrates state acknowledgment of the need for something to happen and something to change on the human rights front in achieving gender equality and simultaneously highlights the severity of the issue. However without legislative change these policies can potentially remain empty symbols of action.

Legislation around gender-based violence is minimal despite all countries being state parties to CEDAW. This expresses the entrenched values and customs of patriarchal societies that continue to frame the mindsets of many which has

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<sup>412</sup> Forster and Jivan, "Challenging conventions : in pursuit of greater legislative compliance with CEDAW in the Pacific."656.

<sup>413</sup> Ibid.

many impacts for the effectiveness of the implementation. The policies and legislation that are in place symbolise positive change and are the product of a lot of hard work and advocacy on the behalves of civil society. However advances in law and policy are limited due to a number of challenges that “perpetuate gaps in implementation, upscaling and accountability, and prevent effective programmatic responses.”<sup>414</sup> Such as while relevant legislation may exist in some countries, offences are massively underreported due to public stigma and attitudes. Furthermore, in countries of weak governance and related law enforcement can mean that offences that are reported are not adequately processed.<sup>415</sup>

An interview participant described the law as being a crucial part of the process, albeit only a part, highlighting that it is more about “behaviour, it’s [GBV] about attitudes, it’s about challenging wrong practise, culture and religion.”<sup>416</sup>

Discrimination against women is instilled from childhood so much so that it takes on a type of normality and becomes socially acceptable. These norms, societal attitudes and discriminatory behaviour is woven deep into society often permeating through to government level who likely hold similar values as those within their society. When asked to identify and discuss barriers to overcoming violence in the communities, interview participants constantly highlighted patriarchy as a challenge.

One participant emphasised that it is not only men to blame in the patriarchal system but the women also, who have been “conditioned from childhood...on what a woman can and cannot do.”<sup>417</sup> To break these norms and values requires not only the creation and endorsement of laws, policies, national strategies and commitments but also effective implementation in order to unravel harmful attitudes and foster values of mutual respect and equality. An interview participant speaking in specific reference to Fiji also stated that the political

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<sup>414</sup> UNWomen, "Ending Violence against Women and Girls Programming Essentials," (June 2013).19.

<sup>415</sup> Shamima Ali, "Violence against the girl child in the Pacific Islands region " in *United Nations Division for the Advancement of Women and UNICEF* (Florence, Italy2006).19.

<sup>416</sup> Interview Participant 6, recorded on Monday 29 August, 2016 in Suva, Fiji.

<sup>417</sup> Interview Participant 1, recorded on Wednesday 24 August, 2016 in Suva, Fiji.

climate had created extra difficulty in the implementation and enforcement of legislation.<sup>418</sup> The role of civil society is therefore critical on the ground in the particular social, cultural and political climate of Melanesia to hold the government to account for human rights violations as well as to raise the awareness of human rights among the local people to empower them to fight for their rights and claim what is rightfully theirs. If people don't know their rights and are unaware of what legislation exists, their realities on the ground will change little.

One of the main limitations of this section on the current women's rights situation in Melanesian societies is that all countries recognise custom in one form or another in national constitutions. It was however, beyond the scope of this thesis to do an in-depth analysis of customary and religious laws. Customary laws are unwritten and vary across nations and thereby interpreted differently throughout the region. Customary and religious laws do have a strong influence on the treatment of women in Melanesia. One interviewee highlighted that beating women is accepted in many cultures, because of their understanding from the Bible that the man is the head of the household. It was also pointed out that conflict arises from this understanding when it is contrasted with human rights and women's rights, particularly when it is expressed from an external source. So despite policy and agreements endorsed by individual states and regions as well as the adoption of legislation, it is the unwritten but well known customary and religious laws that play a strong role on the ground surrounding issues of gender equality and gender-based violence. Therefore, while the objective of this mapping exercise was to ground the overall capacity impact assessment in a solid political and social framework, it is limited in the respect that it is beyond the scope of this study to include the significant aspects of Pacific life, customary and religious laws.

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<sup>418</sup> Interview Participant 3, recorded on Wednesday 24 August, 2016 in Suva, Fiji.

## **Capacity of Civil Society to Implement Programmes Targeting Awareness of Issues around GBV**

As previously noted, civil society is particularly vital in the states of Melanesia - given that it is a very community oriented and collective society. However, there are multiple barriers that both limit and expand civil society's implementation capacity in Melanesia. As a prominent donor agency and self-acclaimed leader in global development, the EU has an obligation to support the capacity of civil society in Melanesia in order to effectively achieve gender equality and sustainable development. To gain an in-depth understanding of the effect of EU involvement on the capacity of civil society to implement projects for women's rights and gender equality, with a particular interest in projects around gender-based violence, this study looks at comparing policy and action. To gain evidence of policy, as part of the capacity impact assessment, this study will analyse and compare the evidence of capacity with the data collected from the interviews. Thereby this section is effectively looking at what the EU says they are doing in Melanesia and in each individual country and then comparing it with what is actually happening on the ground, in order to gain somewhat of an indication to the gap between policy and action.

Again, the study employed a desk-based key word analysis of EU policy documents targeting development in the Pacific Island region and each country within Melanesia to analyse capacity of civil society in a sense of policy. Seven EU policy documents were analysed; *the Proposal for a New European Consensus on Development: Our World, our Dignity, our Future 2016*; *Communication on a Renewed Partnership with the countries of Africa, the Caribbean and the Pacific (2016)*; *EU-PIFS Pacific Regional Indicative Programme (RIP) for the period 2014-2020* and *the four EU National Indicative Programmes (NIPs) for the period 2014-2016 for Fiji, PNG, Solomon Islands and Vanuatu*. All of these documents were publically accessed through the internet. This study acknowledges the many development policy documents that frame the relationship between the EU and Melanesia but it was beyond the scope of this thesis to do an in-depth analysis of all the documentation. To limit the data set, the most current and relevant documents were chosen. The *Proposal for a New European Consensus on*

*Development: Our World, our Dignity, our Future 2016* was released in November 2016 and aims to update the EU's development response to be aligned with the recent *2030 Agenda for Sustainable Development* and the corresponding set of SDGs, adopted by the United Nations in September 2015.<sup>419</sup> Therefore it was deemed appropriate to analyse this document for evidence of civil society capacity in future EU development relations with the Pacific. Similarly, the Communication on a *Renewed Partnership with the countries of Africa, the Caribbean and the Pacific (2016)* was chosen which further focuses on EU partnerships with the ACP countries after the expiry of the *Cotonou Partnership Agreement in 2020*.<sup>420</sup> Both the former respective *Consensus on European Development (2005)* and the *Cotonou Agreement (2000)* are out-dated. The global context has significantly changed since the adoption of these agreements, and therefore their coherent successors take into account the current context.

The main instrument through which the EU channels its development assistance to the ACP countries as well as to OCTs is the European Development Fund (EDF). 30,5 billion Euro has been allocated to the 11<sup>th</sup> EDF for the period 2014-2020.<sup>421</sup> National indicative programmes (NIP) and regional indicative programmes (RIP) identify strategies and priority areas for EU development programming in each particular ACP country and region. These preparations are done in "close cooperation with the partner countries"<sup>422</sup> including civil society in order to align national priorities and reflect the local context.

The study was unfortunately unable to receive the appropriate documentation for New Caledonia, thereby the country was again left out of the analysis. As an Overseas Territory of France, New Caledonia does not have a NIP rather a single programming document for the period 2014-2016. However this has currently

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<sup>419</sup> European Commission, "Proposal for a new European Consensus on Development Our World, Our Dignity, our Future (SWD (2016) 387 final)," (Strasbourg 2016).3.

<sup>420</sup> "Joint Communication to the European Parliament and the Council A Renewed partnership with the Countries of Africa, the Caribbean and the Pacific (SWD (2016) 381 final)," (2016).

<sup>421</sup> "European Development Fund." European Commission International Cooperation and Development. Accessed 11 January, 2017. [http://ec.europa.eu/europeaid/funding/funding-instruments-programming/funding-instruments/european-development-fund\\_en](http://ec.europa.eu/europeaid/funding/funding-instruments-programming/funding-instruments/european-development-fund_en)

<sup>422</sup> European Commission, "Press Release Commissioner Piebalgs signs development programmes for 21 African, Caribbean and Pacific countries," ed. Europe Direct (2014).

not been publically released and/or agreed on at the time of writing,<sup>423</sup> despite an indicative amount of Euro 29.8million being granted under the 11<sup>th</sup> EDF.<sup>424</sup>

The documents chosen for analysis were analysed for their emphasis was on capacity, civil society and gender-based violence. This was conducted through a key word indicator search on each of these concepts in all documents. The number of times a keyword indicator was mentioned was recorded in a spreadsheet. This enabled the identification of any patterns of interest, ultimately ascertaining the emphasis on civil society capacity and gender-based violence in development and in the specific context of Melanesia (Appendix 4). Indicators found in the attachments were not included in the data collection, as the study is only concerned with the indicators being used within context rather than appearing on their own, without meaning or relevance to the context.

As 'gender-based violence' has various terms of reference, the study also searched and included "violence against women and girls", "sexual violence" and "domestic violence" in order to ensure a thorough search. Similarly, the term civil society is often shortened to CSO, therefore this was also included as a keyword search indicator. In the documents the key terms appear under a number of broad headings such as environment, human rights and governance, energy, food and agriculture, economic growth and infrastructure. For the purposes of this study, the most relevant one is human rights and governance which issues surrounding gender-based violence directly fall under.

As civil society and gender issues such as violence against women are crosscutting and interconnect across all sectors in society it would be of particular interest for further study to address these concepts across all policy documents encompassing development in the Pacific. As highlighted by an interview respondent when asked about the effectiveness of the EU's RBA in

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<sup>423</sup> "Report from the Commission to the Council on the Implementation of the Financial Assistance provided to the Overseas Countries and Territories under the 11th European Development Fund COM (2016)79 final," (Brussels: European Commission, 2016).6.

<sup>424</sup> "New Caledonia and Dependencies," European Commission International Cooperation and Development, accessed 10 January, 2017. [https://ec.europa.eu/europeaid/countries/new-caledonia-and-dependencies\\_en](https://ec.europa.eu/europeaid/countries/new-caledonia-and-dependencies_en)



development towards gender-based violence, it was felt that a human rights would be incorporated into development processes targeting the human rights and governance sector. Interestingly, it was inclined that sectors seemingly unrelated to human rights on the surface, such as trade and deep sea mining where human rights is not a specific objective, might have less awareness and emphasis of the RBA and human rights in general.<sup>425</sup> This was supported by another interview respondent who suggested that the purity of a RBA rhetoric on the ground can differ between how communities operate and how individuals acknowledge and interpret human rights on the ground.<sup>426</sup>

In the *Proposal for a new European Consensus*, the mention of all three key terms ‘civil society’, ‘capacity’ and ‘gender-based violence’ are reasonably low. Both ‘capacity’ and ‘civil society’ were mentioned only 5 times in the context of human rights and governance in the entirety of the 27-page document. While the document is incredibly small for an overwhelmingly broad and significant title, it can be suggested that this was a satisfactory finding. It signifies that the EU is aware of the importance of civil society in the implementation of programmes and achieving development objectives on a global scale. It suggests that the EU values the input and partnership of civil society. On the other hand ‘gender-based violence’ was mentioned twice. Discrimination against women takes many forms throughout all societies worldwide. Gender equality underlines development and the particular problem of gender-based violence is a perverse manifestation of gender inequality that directly impedes development. By including and thereby targeting gender-based violence in its consensus, the EU is making a statement and commitment to ending the violence and promoting the rights of women worldwide.

In the *Joint Communication on a Renewed Partnership with ACP Countries*, ‘capacity’ is mentioned only once whereas ‘civil society’ is mentioned a total of 5 times. This highlights the EU’s renewed commitment towards assisting developing ACP nations and the vital role civil society plays particularly in the

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<sup>425</sup> Interview Participant 6, recorded on Monday 29 August, 2016 in Suva, Fiji.

<sup>426</sup> Interview Participant 8, recorded on Friday 2 September, 2016 in Suva, Fiji.

promotion of human rights values and gender equality. Acknowledgment of the role civil society plays in development is important, however the little mention of 'capacity' suggests little emphasis on the strengthening of the capacity of civil society. Meaning that priority is potentially not being placed on working towards local ownership of development, rather keeping with former top-down approaches.

In the EU-PIFS RIP, capacity appears 6 times under the human rights and governance heading, together with civil society, which appears 15 times. This highlights the emphasis the EU policy rhetoric has on the capacity of civil society in the human rights and governance sphere in the region of the Pacific. It shows that the EU recognises the importance of civil society in the delivery and achievement of human rights in the Pacific. The 15 mentions of "civil society" indicates on a policy level, that the EU is attempting to shift away from a top-down approach to development in the Pacific by placing more value on the reach of local civil society. This supports their objective of applying a RBA as it is seen in policy, in involving local ideas and local voices to encourage the core principles of ownership and participation. As previously concluded, gender inequality and gender-based violence is a relentless and constant battle for development initiatives in the Pacific. Thereby 'gender-based violence' was adequately mentioned 4 times in the RIP. This commits the EU to funding projects and building the capacity of civil society that directly targets the issue.

The key word indicator search in the NIPs for Melanesia produced interesting findings. In the Fiji NIP, capacity was mentioned in the context of human rights and governance four times, while in the NIPs for PNG and Vanuatu it was mentioned twice and once respectively. On the other hand the Solomon Islands NIP stated 'capacity' seven times in the human rights and governance context. This symbolises that the EU recognises the weakness of capacity on the human rights front and therefore is specifically targeting the capacity in order to have more effect on the ground. The same cannot be said for Fiji, PNG and Vanuatu. Although human rights and governance in these particular countries is below the global standard and a well-acknowledged barrier in achieving sustainable

development, the keyword indicators search brings little attention to increasing capacity in these areas.

The keyword search for 'civil society' in the NIPs highlighted the growing acknowledgement of the benefit of partnerships of donor agencies with civil society in Melanesia. In the NIP for Fiji 'civil society' was mentioned a total of twelve times, eight of which being in the context of human rights and governance, while in Vanuatu it was stated eleven times, ten in the sphere of human rights. This possibly highlights the growth of civil society in these countries. There is a definite comparison with Fiji and Vanuatu's low number of mentions for 'capacity' and the high number of mentions for 'civil society'. This could potentially symbolise that while the EU views civil society as a strong mechanism through which to deliver aid and implement EU development programmes. It potentially does not view them as strong single entities in themselves capable of the required knowledge, skills and ideas to implement programmes. Thereby not upholding a RBA and employing local participation and ownership, rather continuing traditional development approaches of need-based or the "charity model".<sup>427</sup>

Meanwhile, in the NIP for PNG 'civil society' was mentioned only four times which generally coincides with the two mentions of 'capacity'. In the human rights and governance context this could signify the lack of civil society in PNG. Thereby justifying the lack of mentions of 'capacity' in the NIP. It could be argued that if more emphasis were put on increasing the capacity of civil society, then PNG civil society would have more capability to implement programmes and thereby improving sustainability. Furthermore in the Solomon Islands, 'civil society' was mentioned four times that is in approximate correlation to the seven mentions of 'capacity'. This again potentially signifies a weak or lack of civil society in the country in the human rights context.

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<sup>427</sup> Interview Participant 1, recorded on Wednesday 24 August, 2016 in Suva, Fiji.

Overall the capacity of women's civil society in the Pacific region is weak. All interview respondents were very honest in saying that while there are many people and organisations that are very passionate and dedicated to the cause of empowering their women to overcome violence and discrimination, civil society is overwhelmingly weak throughout the entire Pacific region with a "long way to go around capacity".<sup>428</sup> An interview participant noted that a flourishing civil society is not one or two organisations and thereby capacity was very weak, particularly in the islands of Melanesia. The huge disparities between isolated communities and villages and urban areas, together with limited means of communication and access to transport, creates a very difficult physical environment for civil society to flourish, not to mention the challenging societal norms and values which pose further complications and add another level of complexity. This means that the capability of civil society to reach women and girls beyond the urban border, which is more open to different perspectives, is very restricted by weak capacity and limited resources. Civil society were described as needing to "build their own capacity"<sup>429</sup>, as outside of the nation of Fiji, there was little funding committed to their cause.

It was also noted by one of the interviewees that weak capacity can be a result of Pacific people belonging to a "praying culture" in comparison to that of a culture of protest. In other words, rather than openly advocating mistreatment and putting themselves in the public sphere, it is more common for people of Pacific culture to retreat from the public eye and seek spiritual solace. While there are solid local organisations on the ground, which are primarily in the more urban areas, they don't necessarily have the capacity and/or resources to act on a national or regional scope. Together with the challenge of receiving social acceptance and support, local women's NGOs face societal and logistical barriers before even being able to implement programmes.

As a result of the size Pacific Islands and their status as a developing region, there is an expectation of a limited capacity and knowledge surrounding human

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<sup>428</sup> Interview Participant 7, recorded on Thursday 1 September, 2016 in Suva, Fiji.

<sup>429</sup> Interview Participant 6, recorded on Monday 29 August, 2016 in Suva, Fiji.

rights and governance. It is therefore understandable for donor agencies to choose larger umbrella organisations over local groups who have previous development experience. However this creates power imbalances.

Talking explicitly about the EU and their involvement in Melanesia, one key informant highlighted the value that the EU places on coalitions.<sup>430</sup> It was mentioned numerous times by many of the representatives of local NGOs, that the EU's system and processes of applying for funding were extremely difficult and ultimately "not user-friendly" with many requirements needed.<sup>431</sup> As a result many local organisations in the community are put off and look elsewhere for funding, thereby limiting the participation of certain organisations.<sup>432</sup> The result is an unintentional encouragement of coalitions among larger umbrella organisations and local organisations, with the former being more experienced in the EUs level of development jargon and easily capable of "jumping through the hoops" required for EU aid creating power imbalances.

Power imbalances must be acknowledged as the HRBA has the objective of creating a level and inclusive playing field that encourages participation toward a common goal. Furthermore it was suggested by a local independent respondent for the EU to directly fund smaller organisations in order to have that "direct access to the community"<sup>433</sup> through which they'll utilise local knowledge and expertise to implement proven cultural strategies. Therefore while it is admittedly more economical for donor agencies such as the EU to fund larger and experienced organisations, in terms of administration and management, giving ownership to local organisations would be more sustainable and beneficial to the cause in the long-term. A representative from a donor agency, specifically stated building capacity in the Pacific needs to be around leadership so interventions can be led by the community from those "as locally sourced as possible"<sup>434</sup> such as Pacific-based researchers, traditional leaders and

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<sup>430</sup> Interview Participant 5, recorded on Monday 29 August, 2016 in Suva, Fiji.

<sup>431</sup> Ibid.

<sup>432</sup> Ibid.

<sup>433</sup> Interview Participant 4, recorded on Friday 26 August, 2016 in Suva, Fiji.

<sup>434</sup> Interview Participant 8, recorded on Friday 2 September, 2016 in Suva, Fiji.

male parliamentarians. Engaging local knowledge and local resources helps to build capacity and simultaneously works towards breaking down social and cultural barriers to development. By building the capacity of local civil society, empowers local voice and participation to play a role in decisions that will affect them. Local participation and local ownership of development programmes are prerequisites for empowering women and girls from Melanesia and ultimately decreasing rates of gender-based violence contributing towards achieving sustainable development.

The last keyword indicator search looked at gender-based violence, to gain an understanding of how much focus was given to the issue in policy. This was then compared with what is actually happening on the ground both in terms of data collected through interviews and looking at projects specifically targeting gender-based violence. Surprisingly, there were very few results to record given the seriousness and reality of the issue on the ground.

In the *Proposal for a new European Consensus*, there were two mentions of gender-based violence. This highlights that the EU is aware of the severity of the issue and the detrimental value it brings to global development. Together in their proposal for a new development framework and their adoption of a RBA to all development cooperation, the EU commits itself to doing maximum good and doing no harm<sup>435</sup> and tackling all forms of discrimination and violence against women and girls.<sup>436</sup> Furthermore, in the *Communication on a Renewed Partnership with ACP countries*, gender-based violence is mentioned twice, once in the context of the Caribbean and once in regards to the Pacific region. Again, this acknowledges the issue and its impact on Pacific society and development. However it remains to be seen how policy will translate into action on the ground. It is listed as a main focus under the specific objective of promoting the effective protection of human rights.<sup>437</sup> Thereby cementing the position of the EU

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<sup>435</sup> Council of the European Union, "Commission Staff Working Document Toolbox A Rights-Based Approach, Encompassing All Human Rights for EU Development Cooperation."15.

<sup>436</sup> European Commission, "Proposal for a new European Consensus on Development Our World, Our Dignity, our Future (SWD (2016) 387 final)."9.

<sup>437</sup> "Joint Communication to the European Parliament and the Council A Renewed partnership with the Countries of Africa, the Caribbean and the Pacific (SWD (2016) 381 final)."22.

as “a global leader in promoting gender equality and women and girls’ empowerment in its external relations”<sup>438</sup> and committing it to working towards ending discrimination and violence against women in Melanesia communities.

After viewing the EU development policies and having a broad understanding of the reality of gender-based violence on the ground in Melanesia, it was therefore understandable for there to be four mentions of ‘gender-based violence’ in the EU-PIFS RIP. This could mean that the issue is of the same priority for both the EU and PIFS. However upon further examination of the RIP and the indicative budget, there is a stark contrast between aid allocation for both the priority areas of regional economic integration (50m Euro) and the sustainable management of natural resources and the environment and the management of waste (52m Euro) with the inclusive and accountable governance and the respect for human rights (18m Euro).

It should also be highlighted that the total allocation (166m Euro) is to be spread across 15 member countries (including Fiji, PNG, Vanuatu and Solomon Islands) over the period of 2014-2020. These allocations to specific areas other than human rights and governance could somewhat indicate where the EU sets its priority in reality rather than in policy. The lack of priority and funding of human rights and governance is contradictory to the EU’s development frameworks and their overall global identity in which they promote their foundations as being built on human rights and good governance.

In the analysis of the NIPs, PNG mentions ‘gender-based violence’ a total of four times, while the remaining three countries had no mentions. These findings show that as the study narrowed its focus from the top policy level to country level, emphasis on human rights and governance, specifically gender equality and gender-based violence dwindles.

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<sup>438</sup> "Proposal for a new European Consensus on Development Our World, Our Dignity, our Future (SWD (2016) 387 final)."

## **What is Actually Happening on the Ground: EU-Funded Projects**

In order to complement as well as compare these findings, the study looked to identify EU funded projects on the ground. By identifying the number of EU projects that have targeted gender-based violence using the similar data range as in the policy and legislation analysis, since 2005 including projects that are currently ongoing, which further exacerbate this (see Appendix 5). A search was conducted on the website EU Aid Explorer, which is a database that allows access to accurate data on donor activity around the world.<sup>439</sup> The search was limited through the use of filters in order to gather the most relevant and accurate data. Information about development programmes were filtered through via donor name, which was limited to the 'European Development Fund' and 'European Commission-Development and Cooperation-Europeaid'. Individual searches were undertaken for each country by identifying the project location of each particular Melanesian country. As some projects that target gender-based violence don't necessarily use the term in their title, all projects that included the terms 'women' and 'gender' were collected.

As the total number of data collected was surprisingly low and in order to ensure accuracy of the data collection, projects were cross-examined on the European Commission's official development and cooperation website where projects and their details are listed under country headings. Each individual country was again searched for further projects targeting women however only one more was found the "HOPE – A Haus for Protection and Empowerment" in PNG. Interview participants were also questioned on projects that they were aware of involving the EU, in order to ensure accuracy of data collection. However, no more projects targeting women were identified.

Overall since 2005, there have been approximately only thirteen EU development projects that have directly targeted women and gender in Melanesia. There are currently only four EU funded development projects that directly target women in Melanesia. Of the four, three specifically target gender-

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<sup>439</sup> "EU Aid Explorer", European Commission, accessed 13 January, 2017.  
<https://euaidexplorer.ec.europa.eu/MainHomePageAction.do>



based violence all of which are in PNG. The other project is concerned with increasing women's political participation in the Solomon Islands. This study understands that gender and human rights mainstreaming theoretically ensures that gender and human rights are both considered throughout all development policy and action. This study is also aware that many issues are interrelated, meaning that if one issue is targeted its flow-on effects will be felt in other areas. However this study is of the firm belief that gender-based violence is the underlying cause of all gender inequalities. It is an underground, societal issue that is the result of a strong patriarchal society which overtime has become misunderstood as culture. It happens behind close doors and therefore in order to infiltrate it, measures must be undertaken that directly target the cause. One interviewee stated that the "epidemic" of violence in the region calls for both prevention and response.<sup>440</sup> Donors are failing to invest enough in GBV and should be held accountable for the lack of response in the Pacific.<sup>441</sup> Without blanket prevention and response programming, GBV and discrimination against women will continue to be entrenched within Melanesian communities.

### **Realities of Culture and Religion in Melanesian Society and the Potential for Intercultural Dialogue**

As already well-established, culture and religion define Pacific people. Maintaining Pacific identity in a increasingly globalising world, means maintaining Pacific culture, tradition and religion. Through the duration of this study, from an external perspective, this study has learned that there is no way to describe nor fully understand the cultural, religious and traditional ties that link, define and ultimately encompass the Pacific people. Despite all meaningful intention to understand, this study has found that from an external European perspective, we have little to compare it to. Thereby making it a difficult concept to fully understand and hence difficult to incorporate and collaborate into effective development policy and programming. All development policy and programming, particularly in the Melanesia context should revolve around the

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<sup>440</sup> Interview Participant 7, recorded on Thursday 1 September, 2016 in Suva, Fiji.

<sup>441</sup> Ibid.

particular cultural and religious context and cultural awareness through trust, cooperation, mutual understanding and partnership with local civil society. In theory a RBA addresses the importance of local ideas, knowledge and opinions by way of one of the main principles “inclusion and participation in all decision-making’, which should by means of policy, be central to all EU development processes. Through closer cooperation with local civil society is a means to be closer to citizens on the ground and the ultimate effective implementation of a RBA.

In order to examine the level of cultural awareness in its development strategies in Melanesia, the study focuses on the data collected from the interviews as a way in which to gain an understanding of the incorporation of culture (if any) in EU programming on the ground. As part of the checklist of indicators for the capacity impact assessment, the study initially planned to identify if the EU-funded projects targeting gender-based violence incorporate culture. However due to the lack of information available about the projects, the study was unable to accurately identify and analyse the influence of culture in EU projects.

Throughout the interviews it was asked, what were the most effective strategies for actioning change in relation to gender-based violence and women empowerment? Following this probing questions were asked as to the level of influence of culture in development programming. It was pointed out that in the proposals for funding, it was the responsibility of the organisations to incorporate culture and cultural guidelines. One particular participant highlighted that cultural strategies as such were not for donors to dictate.<sup>442</sup> Rather the organisations that work in the communities and/or with local women, who have years of experience and thereby know what cultural strategies work and what don’t. The interviewee then expressed that rather than enforcing culture in EU programming, it would be more beneficial to give funding to smaller local organisations who would have “that direct access to the community to be able to implement development programming using cultural strategies.”<sup>443</sup>

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<sup>442</sup> Interview Participant 4, recorded on Friday 26 August, 2016 in Suva, Fiji.

<sup>443</sup> Ibid.

Interestingly, a representative from a donor agency highlighted that for development and in particular issues of women's rights, to be effective it has to be home grown and contextual.<sup>444</sup> Initiatives that are led by the community and are implemented in the same community will be more effective than ideas sourced externally. However in order for this to happen, there needs to be a dialogue. More to the point, there needs to be a two-way dialogue between donors (EU) and local civil society on the ground.

This study identified the need and reassessment of intercultural dialogue in development. It found that an EU RBA in Melanesia should make further effort in establishing a two-way dialogue based on interculturalism, that revolves around both culture and human rights. Interculturalism promotes interaction within cultures through the creation of bridges linking societies through mutual understanding. The answer of how to incorporate both human rights and culture into development in the Pacific will only be found as a result of adopting an intercultural dialogue based on a mutual understanding in which both donors and civil society can participate on an equal platform.

Human rights run the risk of focusing on the rights of individuals, and therefore threaten the collective community of the Pacific. Culture, religion and community play a significant role in the Pacific and therefore cannot be ignored when dealing with the Melanesian countries and the particularly sensitive issue of gender and gender-based violence. It is clear the countries of Melanesia are committed to change and to the realisation of human rights, the empowerment of women and gender equality as is the commitment of donor agencies such as the European Union in enabling this change. It is thereby in the way the ideas of human rights in development and the particular RBA are communicated or transferred to the local populations on the ground. Knowledge needs to be transferred by means of a two-way intercultural dialogue in a non-threatening manner in order to ensure a level of understanding on both sides. Through intercultural dialogue, which involves both active listening and understanding on

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<sup>444</sup> Interview Participant 8, recorded on Friday 2 September, 2016 in Suva, Fiji.

both sides of the EU and local civil society, a solution to weaving the three crucial elements of church, tradition and human rights and/or RBA will be found.

From the data collected, it appears that listening to local ideas and perspectives remains a well-meaning commitment solidified in policy that has not yet been acted upon on the ground. It was stressed that the EU really need to place emphasis on talking to local citizens in order to identify their issues and from there then examine how these issues can align with those defined by the EU guidelines.<sup>445</sup> EU officials were described as needing to have “an ear to the ground”, to have “regular conversations to build relationships with locals outside of the programmatic.” From this, the study observed a lack of relationship between local and expat communities in Suva. This study appreciates the job the EU does in its development work with the Pacific and in particular the countries of Melanesia. However without developing genuine relationships and real connections as well as an active passion for improving the lives of Pacific people, their potential impact could be jeopardised. Those employed by the EU have a duty and an obligation to uphold to the EU instead of the people of the Pacific. By developing real relationships and understandings based on interculturalism with civil society and local people on the ground, those representing the EU in the Pacific and corresponding projects will have the ability to transcend cultural barriers and overcome local resistance to external approaches of development.

Local people are the experts in their specific cultural, religious and traditional context and thus know what is needed to happen however they are not empowered with the resources. In contrast, the EU needs to acknowledge their dearth of knowledge in this field, despite their external research and analysis into the situation. Thereby giving control to those who live the reality and empowering them with the resources to act on their local knowledge and understandings. The EU and donor agencies in general, in line with the principles of a RBA, need to ensure the input of local voices are in fact heard, rather than being only partially addressed or dismissed entirely. One participant duly noted that while civil society is producing ideas, “its never creative ideas you restrict

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<sup>445</sup> Interview Participant 5, recorded on Monday 29 August, 2016 in Suva, Fiji.

them immediately to a boundary.”<sup>446</sup> And as a result, important parts can be excluded from programming. The all-encompassing concept of culture needs to be incorporated in Pacific development strategies in order to be effective on the ground for women, girls and men alike in the achievement of sustainable development. This will only occur with the genuine partnership and cooperation between civil society and the EU based on interculturalism, through which there is a two-way active dialogue of listening and understanding.

In theory, an RBA recognises the value of local ownership and participation through the empowerment of the rights-holder to claim their rights. Bottom up approaches anchored in local cultures and traditions are more likely to succeed in achieving development goals despite requiring more resources and funding. Local ownership is crucial for development to be sustainable and continue to function after programmes have ended. Local people and local organisations know the needs of their citizens better than anyone else, however are not empowered with the resources. Therefore it is necessary for the inclusion of culture in dialogue.

Religion is a crucial aspect of Melanesian life. The Church is often described as holding more power than the government among communities. It was highlighted as being both a cause and means of prevention for gender-based violence in Melanesian societies. In describing the religious context of Melanesian countries related to gender-based violence, one participant stated that one of the most significant barriers facing civil society is the “very conservative strong entrenched mindset in culture and religion that is very anti-gender and anti-women’s rights.”<sup>447</sup> Thereby highlighting that while this remains a barrier, it is crucial to gain the support of religion in order to support social change in the region. However it is absent from European Union development programming dealing with gender-based violence, in the same societies. Working with religious leaders as well as civil society was mentioned as being a

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<sup>446</sup> Interview Participant 1, recorded on Wednesday 24 August, 2016 in Suva, Fiji.

<sup>447</sup> Interview Participant 6, recorded on Monday 29 August, 2016 in Suva Fiji.

key strategy in overcoming all discrimination against women.<sup>448</sup> Faith-based organisations were described as a “too bigger stakeholder to not engage with”<sup>449</sup> particularly in the context of women’s rights and the implementation of a EU RBA. Working within the Melanesian systems of culture and religion are instrumental in the effectiveness and sustainability of development. By addressing the core of the problem and infiltrating that level of leadership in society of which continues to promote and encourage dominant discriminative social norms and patriarchal structures, development projects will have the sustainability and effectiveness to eliminate gender-based violence. Preventative measures and raising awareness of citizens’ rights as well as promoting legislative change remain vital but without effectively targeting the root of the issues such as the social norms, violence will continue to be prevalent in Melanesian communities.

Religion, like culture and tradition, cannot be involved in the development process without prior consultation with local civil society and faith-based organisations and leaders. Intercultural dialogue is again crucial in incorporating religious beliefs and scripture into development programming, in order to ensure the two are weaved together equally. It is also vital to highlight the development of intercultural dialogue and the increasing of cultural awareness is a long-term process. There is no simple solution and/or no pre-defined framework of how to collaborate culture nor religion and tradition into development and human rights strategies. It must be contextual and it must involve the participation of local peoples, local civil society and faith-based organisations. Donor agencies and their plans for development in the region need to be challenged just as the church and culture need to be challenged in order for women’s rights and overall human rights to be realised in the Pacific.

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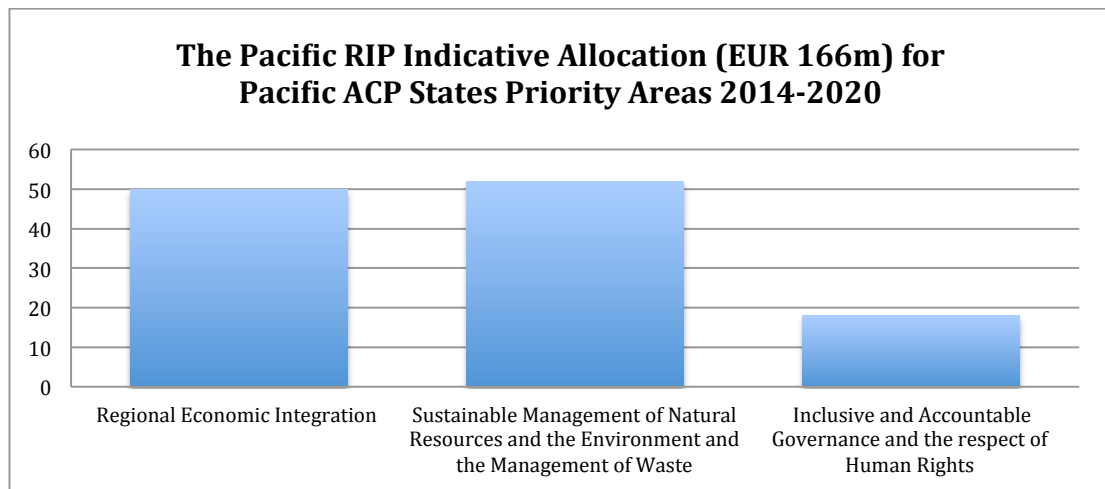
<sup>448</sup> Interview Participant 1, recorded on Wednesday 24 August, 2016 in Suva, Fiji.

<sup>449</sup> Interview Participant 8, recorded on Friday 2 September, 2016 in Suva, Fiji.

## **Donor Relations**

This section of the capacity impact assessment focuses on the potential impact of implementation of the EU RBA in the societies of Melanesia and whether or not it is affecting society by the way of human rights. By looking at the indicator of donor relationships, this study attempts to unveil the practise of EU partnerships with Melanesian civil society on the ground. From the sections above, the literature has highlighted the importance of the capacity of civil society within the Pacific context and the need for further incorporation of culture and religion in development programming. This section builds on this framework by examining EU aid flows through the regional and national levels of development programming in Melanesia. This attempts to demonstrate how the EU is potentially impacting on the capacity of civil society to advocate for women's rights and in particular the issue of gender-based violence. It also potentially indicates where the EU's agenda lies. The former colonisation of Melanesian countries continues to strongly influence the mindset of Pacific people towards outsiders and their "development agendas". Therefore in order to achieve sustainable development, it is vital to engage a strong and mutual partnership built on interculturalism, between donors and civil society. Solid donor relations support and legitimise the position of both donors and civil society within Melanesian communities.

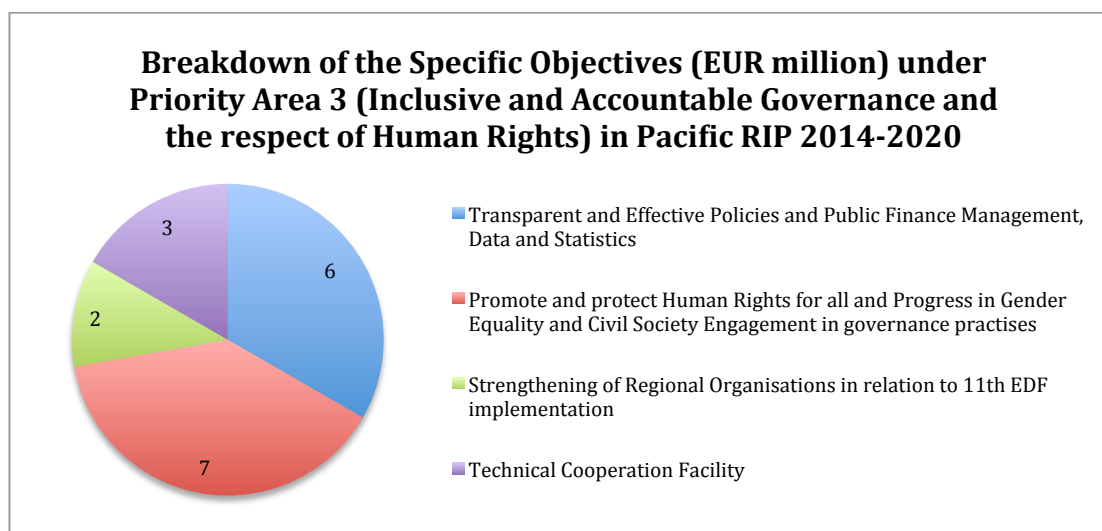
The study collated the data of the EU aid flow in the NIPs and RIP in order to demonstrate the breakdown of aid into priority areas for individual countries and the region. Firstly, the study collated the data from the EU-PIFS RIP, which underlined three priority areas for development relations under the 11<sup>th</sup> EDF during the period 2014-2020. This targets 15 Pacific ACP member states, including those of at the focus of this study. Figure 3 shows both priority areas one and two dedicate an indicative amount of 50 EUR million and 52 EUR million respectively. Whilst the third priority area consisting of human rights, one of the EU's core values and a weakness in the Pacific, is allocated an indicative amount of 18 EUR million.



**Figure 3 The Pacific RIP Indicative Allocation (EUR 166m) for Pacific ACP States Priority Areas 2014-2020**

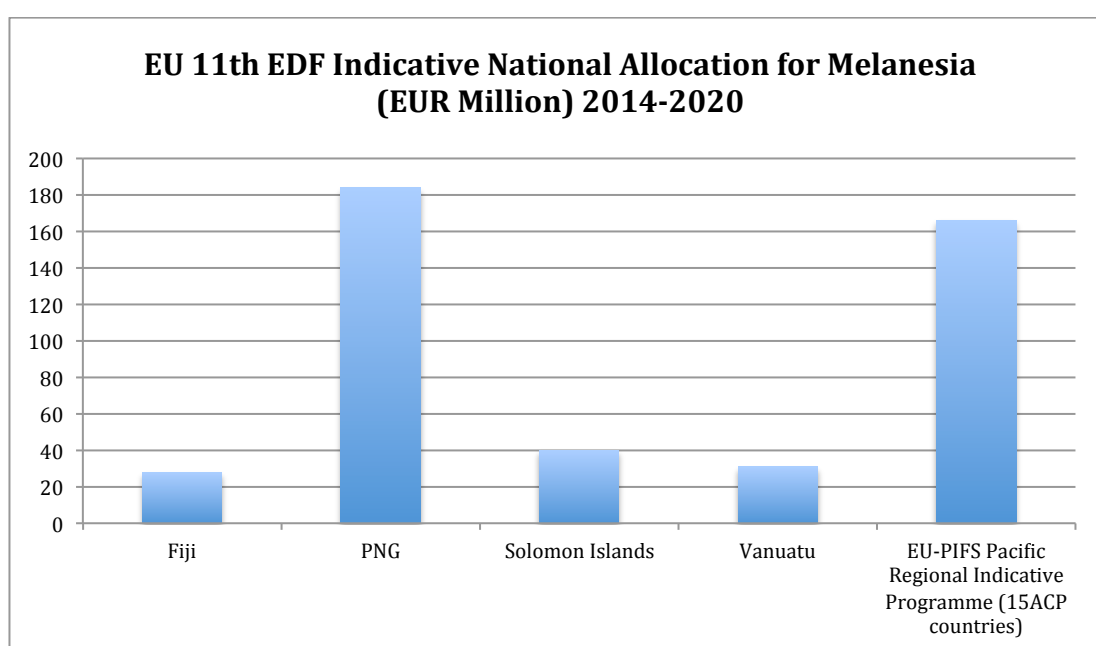
Figure 4 further breaks down the above information in order to delve deeper into how the EU has allocated their funding in the third priority area of Inclusive and Accountable Governance and the respect of Human Rights. The diagram highlights that only 7 EUR million from the 18 EUR Million allocated for priority area 3, will go directly towards promoting and protecting human rights as well as gender equality and civil society engagement in governance practises. 6 EUR million will target policies and public finance management while 2 EUR million has been dedicated to the strengthening of regional organisations in relation to the implementation of the 11<sup>th</sup> EDF. 3 EUR million has been allocated towards Technical Cooperation Facility, meaning 3 EUR million is reserved for technical assistance support to the Regional Authorising Officer (RAO) for overall programme implementation and coordination.





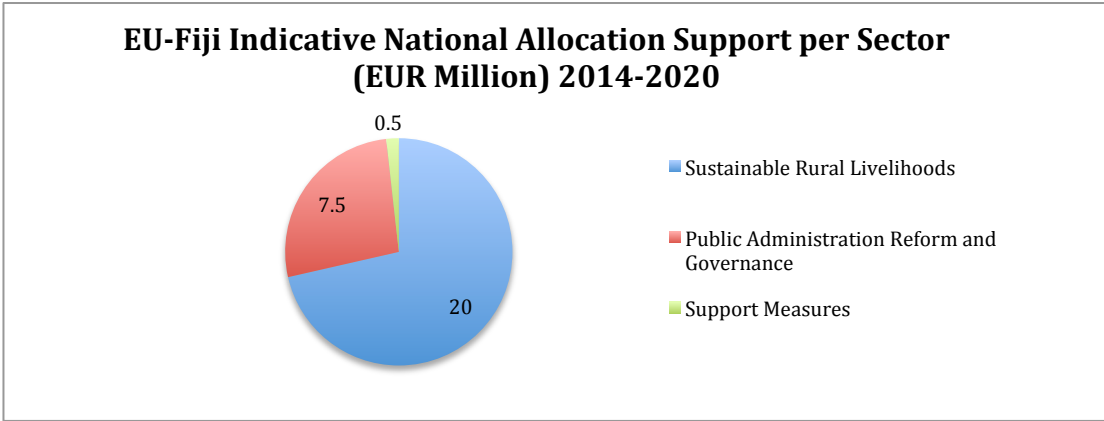
**Figure 4 Breakdown of the Specific Objectives (EUR million) under Priority Area 3 (Inclusive and Accountable Governance and the respect of Human Rights) in Pacific RIP 2014-2020**

Figure 5 is a representation of the national indicative programme envelopes for Fiji, PNG, Solomon Islands and Vanuatu alongside the EU-PIFS RIP funded under the 11<sup>th</sup> EDF for the period 2014-2020. PNG has been allocated 184 EUR million while the Pacific region in the RIP has been granted 166 EUR million. The three countries of Fiji, Solomon Islands and Vanuatu will receive considerably less with 28 EUR million, 40 EUR million and 31 EUR million.

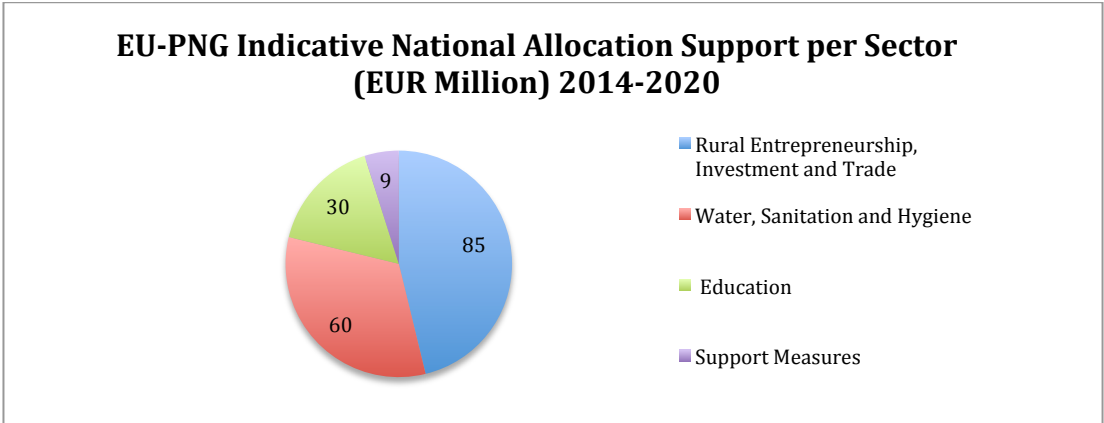


**Figure 5 EU 11th EDF Indicative National Allocation for Melanesia (EUR Million) 2014-2020**

The next four charts represent a breakdown of the national indicative programmes for each country under the 11<sup>th</sup> EDF. Each programme has allocated funding toward support measures. Support measures in all NIPs are described as “measures to support or accompany the programming, preparation or implementation of actions.”<sup>450</sup> It is not considered a sector and is therefore in place to be programmed in addition to the focal sectors.

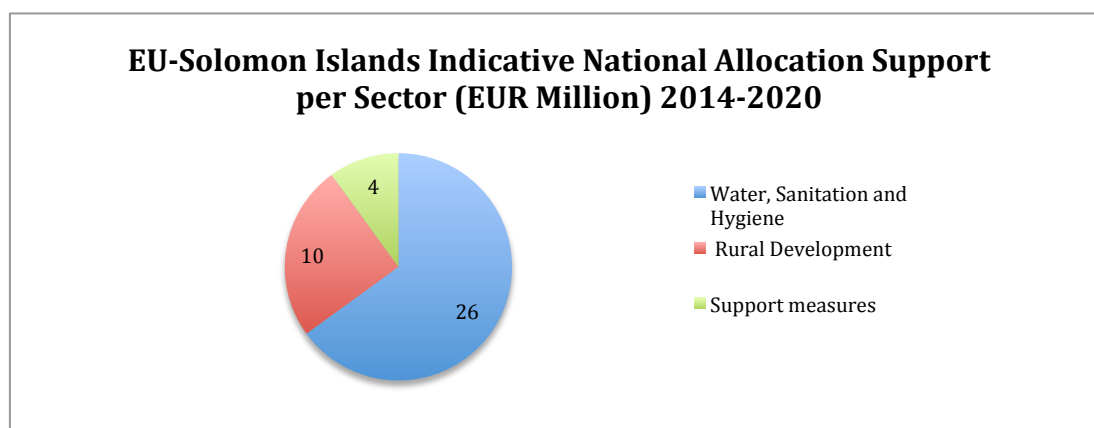


**Figure 6 EU-Fiji Indicative National Allocation Support per Sector (EUR Million) 2014-2020**

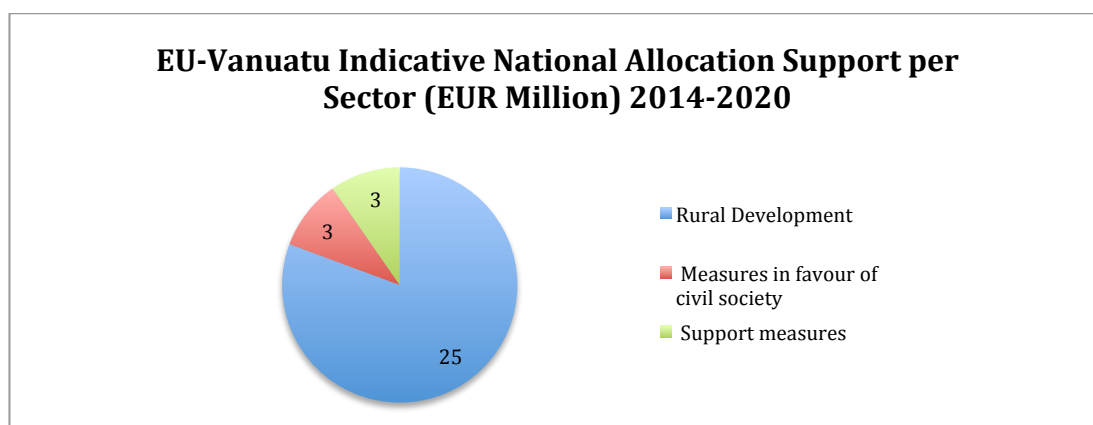


**Figure 7 EU-PNG Indicative National Allocation Support per Sector (EUR Million) 2014-2020**

<sup>450</sup> "European Union - Fiji National Indicative Programme for the Period 2014-2020," ed. European Union and the Government of Fiji (Suva, Fiji2015).18.



**Figure 8 EU-Solomon Islands Indicative National Allocation Support per Sector (EUR Million) 2014-2020**



**Figure 9 EU-Vanuatu Indicative National Allocation Support per Sector (EUR Million) 2014-2020**

From the above visual representations of the breakdown of EU funding allocated to Melanesia (excluding the country of New Caledonia), human rights, women's rights, the capacity of civil society and gender-based violence indicate the low level of priority these issues have in Melanesia and throughout the region of the Pacific. Human rights, and in particular the notion of women's rights and gender equality go against the grain in Melanesian society. These concepts are not foreign in Pacific communities however are prevented from being acted upon due to entrenched patriarchal cultural and religious norms and values. Human rights, women's rights and gender equality lay the foundations for sustainable development. Therefore with the recruitment of civil society and the

implementation of the RBA, the EU needs to target its resources into the heart of Melanesian societies in order to enable sustained change.

The use of an EU RBA to development cooperation has been proposed as the roadmap to achieving sustainable development. It has become somewhat of a “vogue” or “sexy” term<sup>451</sup>, also described as general “donor language”<sup>452</sup> however it is uncertain as to how the approach itself is actually being put into practise. The capacity of the approach to implement successful and sustainable change is complex and under-researched.<sup>453</sup> It is apparent that there is not one definition of the term, allowing it to be interpreted by different people within donor agencies and NGOs alike. The success of the implementation of the approach is therefore dependant on the priorities of individuals as well as the policies of current national governments. It was highlighted that knowledge of the RBA is limited beyond the human rights sphere and therefore hugely dependent on the individuals in charge.<sup>454</sup> Some sectors potentially may be less receptive to the approach and the concept of human rights such as public financial management as well as trade and agriculture due to a limited knowledge.<sup>455</sup> This inconsistency and variability in the understanding of the approach leads to questions in how the approach is actually being implemented on the ground by civil society.

The civil society in the Pacific is crucial to overcoming gender-based violence as the region is very community oriented. The EU RBA should theoretically give civil society the power to create and implement programmes and projects that they believe are important and that will ultimately reap the most benefits for all human development in their communities. As previously established, local civil society has the best knowledge and understanding of the diverse cultural, religious and customary landscape of Melanesia. These factors cannot be ignored in implementing programmes. A RBA must encourage close mutual relationships to form between local NGOs and donors that involve two-way dialogue. In order

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<sup>451</sup> Interview Participant 1, recorded on Wednesday, 24 August 2016 in Suva, Fiji.

<sup>452</sup> Interview Participant 5, recorded on Monday 29 August, 2016 in Suva, Fiji.

<sup>453</sup> Vandenhoe and Gready, "Failures and Successes of Human Rights-Based Approaches to Development: Towards a Change Perspective."

<sup>454</sup> Interview Participant 8, recorded on Friday, 2 September 2016 in Suva Fiji.

<sup>455</sup> Interview Participant 8, recorded on Friday, 2 September 2016 in Suva Fiji.

to avoid being perceived as outsiders imposing change which potentially resonate with times of colonisation. Donors need to be willing to listen and understand what is actually happening on the ground in order to implement effective and sustainable change. In doing so Pacific culture will be preserved whilst simultaneously respecting and protecting human rights. A shift is needed away from ad hoc project approaches and instead focus towards building long term strategic partnerships based on consistent resourcing and collaboration, with an overarching vision to support the development of civil society in individual countries.<sup>456</sup>

Development actors play a crucial role in the Pacific region as they enable civil society through the provision of resources to undertake programmes. However it is apparent that there is a widening gap between theory and practise in parallel to the gap in donor relationships with civil society. Development actors need to ensure their strategies for implementing a RBA filter through all levels of development. One interview participant highlighted that the RBA process “is just as important as the outcome,”<sup>457</sup> as the processes ensure everyone’s human rights are acknowledged and respected. The participant highlighted that sometimes the processes of development are pushed to the side, with donors instead too focussed on the outcome or results. In some cases it was highlighted that “often their processes are not necessarily about advancing rights...because they want a particular outcome.”<sup>458</sup> A RBA is long-term commitment in which results will not be seen immediately after a three year project. The EU and donors alike need to accept and acknowledge that “change is intergenerational”<sup>459</sup> and will thereby not happen over the period of a programme. To be programmatic and to be sustainable, donors need to look at the bigger picture. An RBA is meant to transfer power in decision-making and implementation to local people, therefore moving away from a top-down approach to a more inclusive bottom-up approach. Three year programme

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<sup>456</sup> Pacific Islands Association of NGOs (PIANGO), "Pacific Regional CSO Partnership for Development Effectiveness."

<sup>457</sup> Interview Participant 5, recorded on Monday 29 August, 2016 in Suva, Fiji.

<sup>458</sup> Interview Participant 5, recorded on Monday 29 August, 2016 in Suva, Fiji.

<sup>459</sup> Interview Participant 5, recorded on Monday 29 August, 2016 in Suva, Fiji.

models are argued as being incompatible with the values of an RBA, because the issues of capacity building, empowering women in dominant patriarchal societies and overall ultimately changing mindsets, will not happen in three to five years time.<sup>460</sup> There needs to be a longer time commitment through which power imbalances between donors and civil society and among societies have a chance to level.

The design of a EU RBA to all development cooperation values the objectives of local ownership and local participation, shifting away from a top-down approach in favour of a more bottom-up approach. All of the participants of the interviews were familiar with the concept of a RBA however when asked to define it, the local organisations in particular disregarded its use in their experience. Due to work and travel commitments, one potential interview participant was unable to be interviewed however, wrote her thoughts on the EU and other donor agencies who “implement” a RBA. This participant in the field highlighted that most donors including the EU want to see projects modelled after RBAs, however few donors check to see “whether projects and organisations have the capacity or understanding in how RBAs are actually practically implemented.”<sup>461</sup> The participant went on to acknowledge that many organisations do not know how to implement and operationalize RBAs. This is again where increasing the capacity of civil society is vital in Melanesian and Pacific communities. All members of civil society, specifically implementing EU programmes, need to be diligent and capable in their understanding of the RBA. Otherwise it will remain a “symbolic gesture”<sup>462</sup> in policy.

A strong and mutual relationship built on an open two-way intercultural dialogue between civil society and donor agencies is essential for achieving sustainable development. Drabek notes the concern within civil society of their relationship with donors, arguing that in their efforts to obtain or “win” funding, they have lost autonomy, compromised their priorities and had little

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<sup>460</sup> Interview Participant 1, recorded on Wednesday, 24 August 2016 in Suva, Fiji.

<sup>461</sup> Email Respondent, received 7 September, 2016 in Suva, Fiji.

<sup>462</sup> Interview Participant 1, recorded on Wednesday, 24 August 2016 in Suva, Fiji.

institutional identity.<sup>463</sup> Her thoughts are echoed in the thoughts of Melanesian civil society, who too also question the reality of donors people-centred and rights-based approach to development. Core funding is required for sustained capacity building among civil society, compared to short-term project funding which supports a “piecemeal approach to fundraising and development activities.”<sup>464</sup> Core funding was highlighted in the data collected from the interviews as crucial for the proper implementation of a RBA. Core funding is what employs people, who understand the ins and outs of a RBA.<sup>465</sup> If there is limited core funding you lose the expertise, which is also important in transferring the knowledge to other staff, particularly those of local origin. It was also emphasised that among organisations, only the executive director will be trained professional, while the others will have mostly begun their career on a volunteer path. While experience on the job is great and highly commended, the required capacity for the proper implementation of RBA and human rights in general is limited, had there been qualified graduates training the force.<sup>466</sup> Investing in women’s rights organisations is vital for real and sustained change.

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<sup>463</sup> Drabek, "Development alternatives: The challenge for NGOs—an overview of the issues."11.

<sup>464</sup> Ibid.

<sup>465</sup> Interview Participant 4, recorded on Friday 26 August, 2016 in Suva, Fiji.

<sup>466</sup> Interview Participant 1, recorded on Wednesday 24 August, 2016 in Suva, Fiji.

## 7. Conclusion

Global gender equality is an attainable goal yet to be reached. Throughout the world, women and girls continue to be discriminated against because of their gender. Gender inequality itself does not discriminate, and is prevalent in all societies, irrelevant of social, economic and political background. The issue of gender-based violence and violence against women are perverse manifestations of gender inequality and sadly, remain persistent and constant challenges on political agendas worldwide.

Gender-based violence and violence against women are issues which are deeply entrenched within the patriarchy of Melanesian societies, supported and validated by both culture and religion. This is detrimental to all gender equality and development efforts in the region. Gender equality and the respect for all human rights lay the foundation for equal and sustainable development. It is therefore crucial for gender-based violence and gender to be prioritised and targeted by donor agencies operating in the region, such as the EU. As a result of gender-based violence and the more broader ideas of gender equality and women's rights, being such complex and multilayered issues within societies compounded by various interpretations of culture, patriarchy, custom and religion, external development actors cannot achieve the feat of sustainable development alone. Donors need to build relationships with civil society built on sustainability, transparency, accountability as well as a trust and openness to understanding Pacific perspectives.

The EU, like many other development actors in the Pacific region, has committed to a form of human rights-based approach (HRBA) namely the rights-based approach (RBA). In doing so, the EU is compelled to incorporate human rights into all levels of development programming as a means to empower people to claim their rights and ultimately be leaders of their own development. A RBA is designed to transfer the power to rights-holders from duty bearers, moving away from traditional need-based approaches. However in the example of the EU in the Melanesian context, this study suggests the RBA has been lost in



translation between policy and action. It was found that despite the EU recognising the core principles of an RBA in written policy, operationalization of the approach on the ground depended widely on the organisation and the people in charge. There is cause for argument that what is said and/or done at the top level is not filtered down in order for the full impact to be felt by communities on the ground. The terms HRBA and RBA were described by many representing civil society organisations, as typical, popular donor language that was currently “in fashion”. It was emphasised that there is too much of a focus on outcomes rather than on the processes of the approach. Meaning the process of a true RBA have been lost among the fascination on achieving a particular outcome and perhaps in the effort to advance the self-image of donor agencies on the global development stage. A RBA is a long-term process that requires time and dedicated resources. Projects with a three year life span and limited core funding are not going to encourage local ownership, participation and sustainability. The capacity of civil society should strengthen under a EU RBA. Donors are obligated as international duty-bearers to strengthen the capacity of civil society in Melanesia, so that they can advocate and support their women and girls in their communities.

The capacity of civil society is weak throughout Melanesia and the wider Pacific region. There is an overwhelming need to enable local civil society to address issues surrounding gender-based violence in order to overcome gender inequalities in Melanesian societies in their journey toward sustainable development. Civil society is already equipped with the local knowledge and understanding of the cultural and religious contexts and therefore has the ability to reach communities. The memory of colonialism continues to resonate within Pacific societies. This has contributed to feelings of resistance and angst toward outsiders, who are seen to commit to developing and changing both their society and their culture.

In the Pacific, community and culture define the people and thereby are sacred to the Pacific way of life. This is difficult for non-indigenous to comprehend, as many outsiders do not have a similar connection to their identity, to which they

can compare. Therefore civil society plays a pivotal role in occupying the space between donor agencies and local people. Civil society is crucial in developing countries, particularly in the Pacific region. As a result of being a collective and community-minded society, development needs to be approached from the ground up. Donor agencies need to view their role as enablers of development rather than the creators. Donors should harness local knowledge and energy through intercultural dialogue, because more than anyone, civil society knows what is needed however are not empowered with the resources. For sustainable development to be realised in Melanesian societies, the engagement and leadership of a strong civil society is crucial in order to avoid donor agencies being perceived as foreigners and/or new-age colonisers as well as to ensure the global and fundamental values of human rights are realised within the local Pacific context.

Intercultural dialogue between donors and civil society has the potential to overcome barriers facing civil society organisations in their advocacy for women's rights in Melanesia. Theoretically a RBA enables civil society to choose the direction of the development of their community, however the interview data suggests that donors such as the EU are continuing to dictate funding and programming. Intercultural dialogue encourages a platform where both external and internal perspectives are both voiced and listened to. It promotes interaction within and between cultures, creating bridges and linking societies with the aim of reaching a common goal. Local people need to be given the opportunity to voice their issues and their proposals for solutions. As put by an interview participant, "we know our context better, we know our nuances better, we know our cultures better."<sup>467</sup> Civil society represents the local community and therefore needs to be taken seriously and given the opportunity to actively engage and participate in decision-making.

Like the RBA, intercultural dialogue is not a process that is able to return results and desired outcomes immediately. Both are long-term processes that are intergenerational and will develop over time with commitment and respect for

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<sup>467</sup> Interview Participant 4, recorded on Friday 26 August, 2016 in Suva, Fiji.

the process. In the particular context of Melanesia, human rights and women's rights in their simplest form often contradict with societal norms and values which are informed by culture. Culture and human rights need to both be incorporated into development programming at all levels. Unfortunately this study does not have the answer of how to undertake this massive task, which has the potential to solve many issues worldwide. However, this study does propose intercultural dialogue as the means to achieve this feat to attain the greater goal of overall sustainable development for the region. This study is not suggesting Pacific cultures need to change. Rather it proposes that highlighting the commonalities between Pacific culture and human rights by means of intercultural dialogue will contribute to identifying how human rights can be further incorporated within their cultural context. In turn, by adopting an interculturalist framework as the basis of their relationship with civil society, the EU will have a more thorough and in-depth understanding of the capabilities of the women and girls in the communities.

In order to implement effective and sustainable development, donors need to target increasing the capabilities of women and girls in the Pacific. Meaning the EU, in its efforts to undertake a rights-based approach to development, should concentrate on what women and girls are actually able to do and be within their societies. By using intercultural dialogue as a platform to meaningfully engage with civil society, the EU will have an understanding of the wider picture of what is actually happening on the ground. The EU can then act appropriately applying their knowledge and resources in priority areas identified by in-depth consultation at the local level.

This study has identified that EU policy is not filtering down to the ground level of Melanesian communities. Desk-based analysis of EU development policy documents, as well as indicative funding programmes for Melanesian countries and the broader Pacific region revealed gaps between policy and action. The interview data collected again emphasised the discrepancies that lie between policy and action. According to the interview which were conducted with chosen representatives of civil society organisations in Fiji, gender-based violence and

violence against women were recognised as being the top rights issue facing Melanesia and the broader Pacific region. Despite being mentioned in EU policy as an area to be targeted, policy towards gender-based violence was limited in national and regional indicative programmes. This was further demonstrated by a mapping of EU-funded projects targeting gender-based violence. Priority areas for development need to be a discussion based on interculturalism and the development of a cultural awareness with a focus on understanding the capabilities of women and girls. This study appreciates the many donors and development actors in the Melanesian region, and realises that each have their own priorities and are attempting to coordinate activities across all sectors. However again, the role of a two-way dialogue based on interculturalism between donors and civil society will reveal where the gaps are and how they should be attended. Gender-based violence is a destabilising factor in development efforts, and without addressing and engaging local civil society, policy will continue to be a far cry from reality on the ground and gender equality and sustainable development will remain attainable goals yet to be reached.

As an outsider partaking in research on Melanesia and the particular issue of gender-based violence, it was paramount to be aware of the limitations surrounding the researchers own knowledge and understanding of Pacific culture. Instead of forming conclusions and recommendations based on the researchers own opinions, it was important to use the study as a platform to advocate for Pacific women who cannot speak, and thereby frame the study on the ideas and opinions of local people who live and breathe the reality. This study is aware of the impact generalisations can have on people and their communities. As an external research to the Pacific it is hard to paint a reality to which is foreign. Therefore it was imperative for this study to conduct fieldwork in the Pacific in order to attempt to understand the situation from a local perspective. This study is aware of its limitations however hopes to raise an awareness and draw attention to the potential gaps between theory and practise in development in the Pacific. This research doesn't provide an answer, rather insights into the realm of bridging the divide between policy rhetoric and action

at a community and civil society level. In presenting these findings it hopes to encourage further research to delve deeper into an analysis of the effectiveness of a human rights-based approach to development in the Pacific region. These knowledge gaps need to be addressed for the women and girls of the Pacific and for real sustainable development to be realised.

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## **Appendix One – Capacity Impact Assessment**

### **Checklist of indicators for the assessment of the impact of the EU RBA on the capacity of civil society in raising awareness of gender-based violence**

#### **HR/WR Situation**

- Has CEDAW been implemented?
- Does the government have a national gender-based violence strategy and/or other relevant policies?
- Is there relevant legislation surrounding women's rights?
- Does country have law prohibiting violence against women?
- Do customary or religious laws influence the treatment of women?

#### **Capacity of Women's' NGOs/Civil Society to implement programmes**

- Are there barriers/factors that limit or expand the implementation capacity?
- Has the EU involvement in Pacific development affected local and regional organisations?
- Is the EU budget for implementation of projects for women's rights increasing or decreasing?
- Do allocations to specific areas of development indicate where EU sets its priorities?
- Is lack of resources a major obstacle?
- Are there projects targeting violence against women funded by EU?

#### **Culture/Interculturalism/Religion**

- Is culture incorporated into effective strategies for actioning change in relation to GBV?
- Are EU projects impacting on social norms regarding women's rights?
- Is there a dialogue between the EU as a donor and civil society on the ground?
- Is religion being incorporated into projects?

#### **Donor Relationships**

- Is the EU RBA focussed on processes as well as outcomes?
- Has the EU RBA affected society?
- Is the EU targeting barriers facing NGOs advocating women's rights?
- Has the EU had an impact on rights?

## **Appendix Two – Interview Questionnaire**

What has been your/your organisation's involvement with the European Union?

What would you identify as the three top rights issues facing your region?

What activities involving the EU are you aware of in your region?

Has the EU's involvement in Pacific development affected your organisation?  
If so, how?

Are you aware of the EU's Rights-Based Approach for development cooperation?  
If no, move on. If yes, how would you define it?

In relation to rights, has this (if at all) rights-based approach affected your organisation?

In what way has the EU impacted on social norms in Melanesia (certain region) regarding women's rights?

What do you see as the most effective strategies for actioning change in relation to:

-incorporating cultural strategies?

1. Women's empowerment
2. Gender-based violence

What would you identify as barriers facing NGOs advocating for women's rights?

How can the EU help to overcome these barriers?

Have you got anything else you would like to add?

## Appendix Three – Mapping of National Policy and Legislation

HM/HR Situation	Fiji	Papua New Guinea	Vanuatu	Solomon Islands	New Caledonia
Has CEDAW been implemented? Are there any reservations? Has General Recommendation No. 19 on violence against women been signed?	1995	1995	1995	2002, 1993 (via France)	
Does the government have a national gender-based violence strategy and/or other relevant policies?	No Drop Policy, 1995; Fiji National Women's Policy, 1998; 2008/17 the 2007 National Policy on Sexual Harassment in the workplace; Fiji National Gender Policy 2014; Women's Plan of Action (2010-2019)	National Gender Policy and Plan on HIV and AIDS 2006-2010; National Gender Policy 2009; National Medium-term Development Plan 2011-2015; National Policy for Gender Equality and Women's Empowerment 2011-2020; HIV/AIDS Strategy 2011-2014	Gender Equity Policy 1997; Gender Equity in Education Policy (2005-2015); Development Strategy: Phases 2007-2011; National Education Policy 2009; National Medium-term Development Plan 2011-2015; National Policy for Gender Equality and Women's Empowerment 2011-2020; Justice Sector Strategy (2010-2017); National Gender and Women's Empowerment Policy (2013-2023); Planning, Long and Aging Short 2013-2016; Justice and Community Services Sector Strategy 2014-2017; National Gender Equality Policy 2015; 19 Reproductive Health Policy (2015);	Ministry of Women, Youth and Children's Affairs (MYWYA) Corporate Plan (2008-2012); National Gender Policy Against Women (EVAW) Plan (2008-2012); National Gender Equality and Women's Development Policy (GEWD) 2010; National Development Strategy for 2011-2020; National strategy on the economic empowerment of women and girls 2014;	le Plan strategique de l'egale hommes femmes 2015-2019
Is there relevant legislation surrounding women's rights?	Employment Relations Promulgation Procedure Decree 2009; Criminal and Penalties Decree 2009; Child Welfare Decree 2010;	Equality and Participation Act 2011; * Repaired 1971 Sorey Act 2013; National Council for Women Act 2013	Section 150 of the Penal Code (No Discrimination) 1981; Amendment of Employment Act Nos. 31, 33, and Act No. 25 of 2008, 2009, 2010;	Evidence Act 2009; Immigration Act Punitive Actions Against Trafficking 2012	French Gender Party Law 2004, The Labour Code of New Caledonia 2008
Does the country have law prohibiting violence against women?	Family Law Act (2003) Domestic Violence Decree 2011	Amended Criminal Code and Evidence Act addresses sexual abuses 2002; Sexual Offences and Crimes Against Children Act 2002; Labourer's Rights (Child Protection Act) 2009; Family Protection Act 2013	Vanuatu Family Protection Act 2008	Family Protection Act 2014;	Violence Against Women Law passed in France (applicable only in part in NC) 2010;
Do customary or religious laws influence the treatment of women?	Yes	Yes	Yes	Yes	x
Are there sections/amendments in the national constitution that include women's rights and/or gender-based violence?	Section 41.1.10 of the Constitution (VAM)	Section 36 and 253 of the Constitution	Article 5 of the Constitution 1983	Section 226, 231 and 245 of Penal Code addresses VAW legislation; Section 6 and 7 Amendments to the Constitution.	



## Appendix Four – Analysis of Capacity, Civil Society and GBV in EU Policy Documents

Key Word Analysis of the Capacity of Civil Society in Current and Proposed EU and Pacific Regional and National Frameworks for Development 2014-2020															
Current EU and Pacific Regional and National Frameworks for Development 2014-2020															
EU Development Policy Sector	Proposal for a new European Consensus on Development (our World, our dignity, our Future 2016)	Communication on a Renewed Partnership with the Countries of Africa, the Caribbean and the Pacific 2016	EUPFS Pacific Regional Indicative Programme for the period 2014-2020	EU/Fiji National Indicative Programme for the period 2014-2020	EU/PNG National Indicative Programme for the period 2014-2020	EU Solomon Islands National Indicative Programme for the period 2014-2020	EU Vanuatu National Indicative Programme for the period 2014-2020								
	Capacity	Civil Society	GBV	Capacity	Civil Society	GBV	Capacity	Civil Society	GBV	Capacity	Civil Society	GBV			
	Human Rights and Governance	5	5		5	6	15	4	8	2	4	7	4	1	10
	Food and Agriculture														
	Economic Growth	3				7						4		3	
	Human Development	6	1			2	1	1	1	3		1			1
	Infrastructure	1										7			
	Environment	1		1		12	2	2		1		1	2		
	Energy														
Migration and Asylum		1													
Total Matches	16	7	2	1	5	2	27	18	4	8	12	0	16	4	11

## Appendix Five – EU-Funded Gender Projects

Project Name	Start	End	Project Location	Donor	Total Cost	EU Contracted Amount	Implementing Partner	Reference Number
<a href="#">Papua New Guinea Leadership Against Gender Based Violence</a>	2014	2016	Papua New Guinea	European Commission - Development and Cooperation - EuropeAid	347 500 EUR	278 000 EUR	WORLD VISION (PNG) TRUST	EU-1-2014/350-728
<a href="#">Empowering civil society to promote gender equality and combat gender discrimination in the Solomon Islands</a>	2012	2015	Solomon Islands	European Commission - Development and Cooperation - EuropeAid	315 789 EUR	300 000 EUR	Secretariat of the Pacific Community (SPC) and The Equal Rights Trust	EU-1-2011/277-270
<a href="#">Examining gender based violence through drama</a>	2009	2012	Vanuatu	European Commission - Development and Cooperation - EuropeAid	N/a	95 000 EUR	Wan Smolbrog Theatre Charitable	EU-1-2009/207-694
Financial audit of "Combating commercial exploitation of children and violence against women in remote regions of the Western Pacific", EIDHR/2009/16-447	2014	2015	Papua New Guinea	European Commission - Development and Cooperation - EuropeAid	N/a	35,315 EUR	Delegation of the EU to PNG	EU-1-2014/347-246
<a href="#">Electoral law reform, political parties systems reform and legal reform to improve women participation in political life</a>	2015	2017	Solomon Islands	European Development Fund	208,890 EUR	208,890 EUR	Particip GmbH Consultants fuer Entwicklung und Umwelt	EU-2-2015/358-635
<a href="#">Addressing Violence Against Women in Papua New Guinea</a>	2015	2017	Papua New Guinea	European Commission - Development and Cooperation - EuropeAid	308 888 EUR	277 999 EUR	VOLUNTARY SERVICE OVERSEAS and its partner Madang Country Women's Association	EU-1-2015/356-357
Strengthening rights of rural women by providing them with knowledge, access and control of their reproductive health	2012	2014	Fiji	European Commission - Development and Cooperation - EuropeAid	N/a	240 000 EUR	Viessei Sai Health Centre	EU-1-2012/303-053
Capacity Building and Institutional Strengthening of Solomon Islands National Council of Women	2012	2015	Solomon Islands	European Commission - Development and Cooperation - EuropeAid	N/a	122,571 EUR		EU-1-2011/277-259
Enhancing the political participation of marginalised women voters in the Northern / Western and Central Division.	2012	2014	Fiji	European Commission - Development and Cooperation - EuropeAid	N/a	174,536 EUR	Fiji Women's Rights Movement	EU-1-2012/302-269
Architectural Design, Documentation & Supervision of works for Porgera Women's Development Training Centre (PMDTC), Porgera, Enga Province, Papua New Guinea	2012		Papua New Guinea	European Development Fund	N/a	16,543 USD		2.00021E+12
Women in Shared Decision Making (WISDM) Project	2010	2012	Solomon Islands	European Commission - Development and Cooperation - EuropeAid	N/a	79,674 EUR	UNIFEM	EU-1-2009/229-098
Micro-Credit Revolving Seed Fund for Women Village Bank Pilot Testing	2008	2011	Papua New Guinea	European Commission - Development and Cooperation - EuropeAid	N/a	62,680 EUR		
<a href="#">HOPF - A Haus (house) for Protection and Empowerment Project</a>	2014	2017	Papua New Guinea	European Commission - Development and Cooperation - EuropeAid	1,302,823 EUR	1,080,000 EUR	CHILD FUND PAPUA NEW GUINEA and City Mission as key partner	

## Appendix Six – List of Interview Participants

Interview Participant	Date	Where
1	24 August, 2016	Suva, Fiji
2	24 August, 2016	Suva, Fiji
3	24 August, 2016	Suva, Fiji
4	26 August, 2016	Suva, Fiji
5	29 August, 2016	Suva, Fiji
6	29 August, 2016	Suva, Fiji
7	1 September, 2016	Suva, Fiji
8	2 September, 2016	Suva, Fiji